CITY OF IDAHO FALLS, IDAHO
CODE OF ORDINANCES

PREFACE

This Code of Ordinances may not reflect the most current legislation adopted by the City of Idaho Falls. The City of Idaho Falls provides this document for informational purposes only. This document should not be relied upon as the definitive authority for legislation for the City of Idaho Falls. Additionally, the formatting and pagination of the posted documents varies from the formatting and pagination of the official copy. The official printed copy of a Code of Ordinances should be consulted prior to any action being taken.

This volume of the City Code of the City of Idaho Falls, Idaho, as supplemented, contains all general ordinances adopted by the City prior to and including October 28, 2013. General ordinances passed after that date supersede the provisions of this Code to the extent they are in direct conflict with each other. Users of this Code should contact the City Clerk to determine if any provision of this Code has been amended, superseded or repealed after that date.

The City Clerk

TABLE OF CONTENTS

TITLE 1 GENERAL ADMINISTRATION
TITLE 2 BOARDS AND COMMISSIONS
TITLE 3 OPERATIONAL DEPARTMENTS
TITLE 4 BUSINESS REGULATIONS
TITLE 5 CRIMINAL CODE
TITLE 6 HEALTH AND PUBLIC SAFETY
TITLE 7 BUILDING REGULATIONS
TITLE 8 PUBLIC UTILITIES AND PROPERTY
TITLE 9 MOTOR VEHICLE AND BICYCLE REGULATIONS
TITLE 10 PLANNING AND ZONING
TITLE 11 COMPREHENSIVE ZONING
<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>SUBJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Official City Code</td>
</tr>
<tr>
<td>2</td>
<td>Saving Clause</td>
</tr>
<tr>
<td>3</td>
<td>Definitions and Constructional Rules</td>
</tr>
<tr>
<td>4</td>
<td>General Penalty Provisions</td>
</tr>
<tr>
<td>5</td>
<td>Mayor</td>
</tr>
<tr>
<td>6</td>
<td>Council</td>
</tr>
<tr>
<td>7</td>
<td>Appointive Officers</td>
</tr>
<tr>
<td>8</td>
<td>Employee Policies and Procedures</td>
</tr>
<tr>
<td>9</td>
<td>Oaths, Bonds and Official Conduct</td>
</tr>
<tr>
<td>10</td>
<td>Ordinances</td>
</tr>
<tr>
<td>11</td>
<td>Elections</td>
</tr>
<tr>
<td>12</td>
<td>Initiative and Referendum</td>
</tr>
<tr>
<td>13</td>
<td>City Finances</td>
</tr>
<tr>
<td>14</td>
<td>[Repealed]</td>
</tr>
<tr>
<td>15</td>
<td>Administrative Provisions</td>
</tr>
<tr>
<td>16</td>
<td>Economic Development Incentive Program</td>
</tr>
</tbody>
</table>
CHAPTER 1
OFFICIAL CITY CODE

SECTION:

1-1-1: Order Incorporating Town of Eagle Rock, Idaho
1-1-2: Order Changing Name from Eagle Rock to Idaho Falls
1-1-3: Title
1-1-4: Acceptance Maintenance of City Code
1-1-5: Amendments
1-1-6: Maintenance of City Code

1-1-1: ORDER INCORPORATING TOWN OF EAGLE ROCK, IDAHO:

Bingham County
CCM
Book A
p. 318-319
July 8, 1889

Board Convened at 2 P.M.

Petition for the Incorporation of Eagle Rock, was presented and the same was ordered Incorporated, with metes and bounds as follows, to-wit:

Beginning at the Center of Sec. No. 18 in Tp. No. 2 North of Range No. 38 East of Boise Meridian, thence running West 1 mile to the Center of Section No. 13 in Tp. No. 2 North Range No. 37 East of B.M. thence South 1¾ of a mile, thence East One mile, thence North 1¼ of a mile to the Center of said Section no. 18 the place of beginning, including the South West quarter of Section No. 18 and the North West quarter of section 19 and the North ½ of the South West quarter of Section 19 in Tp. 2 North of Range 38 East of B.M. and the SE^4 of sec. 13, and the NE^4 of Sec. 24 and the N^2 of the South East quarter of sec. 24. In Tp. 2 N. R. no. 37 East of B.M., all situated, lying and being in the County of Bingham and Territory of Idaho.

As per Petition said town is incorporated under the name of the Town of Eagle Rock and the following Trustees are appointed:

Robert Anderson
W.H.B. Crow
C.W. Burgess
C.B. Wheeler
and L.P. Johnson
(Ord. 2963, 6-24-14)

1-1-2 ORDER CHANGING NAME FROM EAGLE ROCK TO IDAHO FALLS:

Bingham Co. CCM
Book A p. 442

CITY CODE OF THE CITY OF IDAHO FALLS
Aug. 26, 1891

It is hereby ordered that the name of the Town of Eagle Rock in the County of Bingham and State of Idaho, be and the same is hereby changed to Idaho Falls, in accordance with the tally sheets and returns of the election held at Eagle Rock, Idaho, July 22, 1891 for the purpose of changing the name of aforesaid town.

It is ordered that the various road districts of Bingham County be known, described and bounded as shown in Road Record Book A pages 400 to *

Ordered that the bonds of C.T. Woodall, Wm. Clemens and J.P. Smith be referred back on account improper form of said bonds Ordered that this Board do now adjourn until Aug. 27, 1891, at 10 a.m.

R.J. Hayes
Chairman

*original document incomplete (Ord. 2963, 6-24-14)
CHAPTER 2
SAVING CLAUSE

SECTION:

1-2-1: Repeal of General Ordinances
1-2-2: Public Utility Ordinances
1-2-3: Saving Clause

1-2-1: REPEAL OF GENERAL ORDINANCES: All general ordinances of the City are hereby repealed, except as herein specifically preserved or are by implication reserved from repeal, subject to the saving clauses herein contained, excluding without limitation the special ordinances relating to the following subjects: Tax levies, appropriation of public monies, boundaries and annexations, franchises, ordinances granting special rights to persons or correspondence, contracts, issuance of warrants, public salaries, ordinances establishing name or vacating streets, alleys or other public places, improvement districts, bonds, local elections, the sale or exchange of real estate, sign ordinances, economic development, urban renewal, public utilities, zoning and all special ordinances of any kind, except for those provisions in such special ordinances which this Code expressly amends.

1-2-2: PUBLIC UTILITY ORDINANCES: No ordinance or section thereof relating to railroad or railroad crossings of streets and other public ways, or relating to the conduct, duties, service or rates of public utilities shall be repealed by the adoption of this Code or by the preceding section, except as this Code specifically provides for such repeal.

1-2-3: SAVING CLAUSE: Any ordinance amending or repealing any Section of this Code shall not be deemed or construed to abate any pending action based upon such amended or repealed Section, nor shall the passage of such ordinance prevent the arrest, prosecution and punishment of any violation of such Section committed prior to the effective date of such ordinance.
CHAPTER 3
DEFINITIONS AND CONSTRUCTIONAL RULES

SECTION:

1-3-1: General Constructional Rule
1-3-2: Plural and Singular Words
1-3-3: Masculine and Feminine Gender
1-3-4: Priority of Ordinance
1-3-5: Definitions
1-3-6: Captions

1-3-1: GENERAL CONSTRUCTIONAL RULE: Except as expressly stated in this Code, all words shall have their ordinary, generally-accepted meaning.

1-3-2: PLURAL AND SINGULAR WORDS: Whenever any word in this Code is used in either the singular or in the plural form, then such word shall be deemed to include both the plural and singular forms of such word, unless the context indicates an intent otherwise.

1-3-3: MASCULINE AND FEMININE GENDER: When any person is referred to in any Section of this Code by use of the masculine gender, then such reference shall be deemed to include the feminine gender unless the context indicates an intent otherwise.

1-3-4: PRIORITY OF ORDINANCE: In the event of any discrepancy or conflict between this Code and any ordinance passing or amending the same Section of this Code, then the provisions of the ordinance shall prevail.

1-3-5: DEFINITIONS: Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below, unless the context clearly indicates otherwise:

AGENT: A person acting on behalf of another.

BUILDING OFFICIAL: The Director of the Community Development Services Department of the City, or his or her nominee.

CITY: The City of Idaho Falls, County of Bonneville, State of Idaho.

CITY ATTORNEY: An attorney appointed by the Mayor to provide general counsel and legal assistance to the City and to prosecute or defend all civil actions in which the City is a party.

CITY ATTORNEY PROSECUTING: An attorney appointed by the Mayor to prosecute violations of this Code.

COUNCIL: The lawfully elected City Council of the City.

CRIME: An act in violation of this Code.

FELONY: A crime as defined under Idaho Code, Section 18-111.

CITY CODE OF THE CITY OF IDAHO FALLS 6
INFRACTION: A civil public offense, not constituting a crime, which is punishable only by a fine for which no incarceration may be imposed.

INTERNATIONAL BUILDING CODE: The International Building Code as adopted by Ordinance of the City.

INTERNATIONAL FIRE CODE: The International Fire Code as adopted by Ordinance of the City.

INTERNATIONAL RESIDENTIAL CODE: The International Residential Code as adopted by Ordinance of the City.

LICENSE: The permission granted for the carrying on of a business, trade, profession or occupation.

MISDEMEANOR: Every crime except a felony.

OCUPANT: Any person who occupies the whole or any part of such building or land whether alone or with others.

OFFENSE: A crime or other violation of this Code.

OPERATOR: The person who is generally in charge of or responsible for conducting any business, profession or enterprise.

OWNER: Any person owning real or personal property, including any part owner, joint owner, tenant in common, joint tenant, remainderman or person holding a life estate or reversionary interest of any kind.

PERSON: A human being and any public or private corporation, firm, partnership, trust, estate, sole proprietorship, association, organization, government, or any other entity recognized under Idaho law.

PERSONAL PROPERTY: Money, goods, chattels, effects, rights in action and all written instruments evidencing any pecuniary obligation.

RIGHT-OF-WAY: The privilege of the immediate use of the roadway or other property.

STANDARD DRAWINGS AND ENGINEERING SPECIFICATIONS: The Standard Drawings and Engineering Specifications of the City as adopted by Ordinance No. 1877 of the City.

STATE: The State of Idaho.

STREET: All public roads, ways, alleys and rights of way used for the movement of vehicular traffic, including any public sidewalks adjacent thereto.

TENANT: Any person who occupies any building or real property for a consideration to the owner.

UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS: The Uniform Code for Abatement of Dangerous Buildings as adopted by ordinance of the City.
UNIFORM PLUMBING CODE: The International Plumbing Code as adopted by Ordinance of the City. (Ord. 2816, 6-25-09; Ord. 2874, 5-26-11; Ord. 3003, 4-23-15)

1-3-6: CAPTIONS: The captions and titles used at the commencement of each section or subsection of this Code are used only to indicate the content of the section and shall not limit, modify or in any manner affect the scope, meaning or intent of the provisions thereafter.
CHAPTER 4
GENERAL PENALTY PROVISIONS

SECTION:

1-4-1: Misdemeanor Penalty
1-4-2: Infractions
1-4-3: Applicability of Penalty
1-4-4: Multiple Violations
1-4-5: Prosecution Discretion
1-4-6: Penalty Against Officers

1-4-1: MISDEMEANOR PENALTY: Whenever any act or omission constitutes a crime not constituting a felony or infraction and no specific penalty is stated in this Code, such crime shall be punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or by both such fine and imprisonment for any single violation. (Ord. 2613, 8-11-05)

1-4-2: INFRACTIONS: Whenever any person commits an infraction and no specific penalty is provided for such act, such person shall be punishable by an infraction fine in an amount set from time to time by Resolution of the Council and authorized by Idaho Code, and no imprisonment may be imposed. (Ord. 2964, 8-14-2014)

1-4-3: APPLICABILITY OF PENALTY: The penalties provided in this Chapter shall be applied as though they were a part of every separate section of this Code.

1-4-4: MULTIPLE VIOLATIONS: Whenever the same person violates the same section of this Code on two or more days, then each violation on each day shall be deemed a separate offense and shall be separately punishable for each such offense.

1-4-5: PROSECUTORIAL DISCRETION: Whenever the same offense, act or omission is punishable under different sections of this Code, the City Prosecuting Attorney may elect under which section to proceed; but no more than one sentence of imprisonment may be imposed against the same person for the same offense; provided that revocation of a license or permit shall not be considered a penalty so as to bar imposition of a penalty under this Code.

1-4-6: PENALTY AGAINST OFFICERS: The penalty provisions of this Chapter shall not apply to any section of this Code which designates the duties of any officer or employee of the City unless the intention to impose a fine or penalty is specifically and clearly expressed in the section creating the duty.
CHAPTER 5
MAYOR

SECTION:

1-5-1: Powers and Duties
1-5-2: Term
1-5-3: Special Meetings
1-5-4: Ordinances and Contracts
1-5-5: Mayor May Offer Reward
1-5-6: Accounts and Reports of Officers
1-5-7: Extraterritorial Powers
1-5-8: Salary
1-5-9: Aid to Enforce Laws
1-5-10: Appointment of Committees
1-5-11: Run-off Elections

1-5-1: POWERS AND DUTIES: The Mayor shall be the chief executive officer of the City and shall have authority to hire, terminate, discipline, supervise and control all appointive officers and employees of the City, in the manner provided by this Code or State law. The Mayor shall preside at all meetings of the City Council and may determine the order of business, subject to such rules as the Council may provide by ordinance. The Mayor shall have a vote only when the vote of the Council is equally divided at any meeting where a quorum is present. The Mayor shall have the power to veto any ordinance, resolution or action taken by the Council, provided the Council may override such veto by a vote of one-half plus one of the members of the full Council. The Mayor shall have the authority and responsibility to enforce all police ordinances and regulations. The Mayor shall have authority to administer oaths and shall have all powers, prerogatives and authority conferred by ordinance, by the laws of the State and as may be conferred by resolution of the City Council.

1-5-2: TERM: The term of office of the Mayor shall be for a period of four years, commencing upon the issuance of a certificate of election at the first regular Council meeting in January following his or her election. Any vacancy in the office of Mayor shall be filled in the manner provided by State law.

1-5-3: SPECIAL MEETINGS: The Mayor may call special meetings of the Council, the object of which shall be submitted to the Council in writing and the call and object of which, as well as the minutes required to be kept by law, shall be entered in the journal of the City Clerk.

1-5-4: ORDINANCES AND CONTRACTS: The Mayor shall execute all ordinances, resolutions and contracts approved by the Council, including deeds, bonds, warrants and other agreements to which the City is a party.

1-5-5: MAYOR MAY OFFER REWARD: The Mayor may offer a reward for the arrest and conviction of any person who violates this Code, as provided by law. (Ord. 2964, 8-14-2014)

1-5-6: ACCOUNTS AND REPORTS OF OFFICERS: The Mayor may require any officer or employee of the City to exhibit all accounts, files or other papers pertaining to such office or employment and to report to the Council in writing regarding any subject or matter pertaining thereto.
EXTRATERRITORIAL POWERS: The Mayor shall have the following extraterritorial powers over all persons, places and activities located outside the corporate boundaries:

(A) To prevent, remove and abate nuisances located within three (3) miles of the corporate boundaries, at the expense of the person causing or maintaining the same and to exercise all powers conferred upon the City, pursuant to Idaho Code Section 50-334.

(B) To enforce all health and quarantine laws and ordinances against any person or place located within five (5) miles of the corporate boundaries.

(C) To enforce all laws and ordinances regulating or prohibiting the loading, storage and transportation of hazardous materials or chemicals within three (3) miles of the corporate boundaries.

(D) To extend the City street lighting system for a distance of no greater than two (2) miles outside the corporate limits.

(E) To enforce all platting, zoning, street and surface drainage ordinances applicable within one (1) mile of the corporate limits, to the fullest extent permitted under Idaho Code Sections 50-1306, 50-1330 and 67-6526.

(F) To enforce all ordinances and to exercise all police powers conferred upon the City, except taxation, regarding offenses committed within one (1) mile of the corporate limits, to the fullest extent permitted by Idaho Code Section 50-606.

COMPENSATION OF MAYOR: In addition to compensation for which a City employee is eligible (health coverage, PERSI contribution, cost of living increases, travel reimbursement, and the like), the Mayor shall receive a bi-weekly salary of three-thousand two hundred thirty dollars and seventy-seven cents ($3230.77), provided such salary shall be increased upon the following effective dates:

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<tr>
<th>Effective Date</th>
<th>Amount of Bi-weekly Salary</th>
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</tr>
<tr>
<td>January 1, 2017</td>
<td>$3,307.69</td>
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AID TO ENFORCE LAWS: The Mayor may call on every citizen residing in the City over the age of twenty-one (21) years and under the age of fifty (50) years to aid in enforcing the laws.

RUN-OFF ELECTIONS: A majority of the votes cast for the office of mayor shall be required for election of any candidate to that office. In the event no candidate receives a majority of
the votes cast at any general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes cast. In the event of a tie between the candidates receiving the second and third highest number of votes cast, selection of the candidate to oppose the candidate receiving the highest number of votes, shall be decided by the toss of a coin. Such run-off election shall be conducted in the same manner as for a general election and within thirty (30) days of the general election, and shall not be subject to the limitations set forth in Idaho Code Sections 34-106 and 50-429. The first notice of election shall be published by the City Clerk in the official newspaper not less than twenty (20) days next preceding any run-off election, and the designation of polling places shall be made by the City Clerk prior to such publication. The results of such run-off election shall be subject to any change in outcome as a result of a recount of the ballots pursuant to Idaho Code Section 50-471. If as a result of such recount a candidate receives a majority of the votes cast and such recount becomes final at least twenty-four (24) hours prior to the commencement of such run-off election, the run-off election may be canceled by order of the City Council. (Ord. 2592, 3-24-05)
CHAPTER 6  
COUNCIL

SECTION:

1-6-1: Regular Meetings
1-6-2: Special Meetings
1-6-3: Open Meetings
1-6-4: Term of Office
1-6-5: Salary of Councilmembers
1-6-6: President of the Council
1-6-7: Consent Agenda
1-6-8: Funds Controlled By Council
1-6-9: Election or Appointment by Council Seat
1-6-10: Declaration of Candidacy
1-6-11: Incumbents; Multiple Declarations Prohibited
1-6-12: Elections and Petitions for Nomination
1-6-13: Form of Petition
1-6-14: Validity of Signatures
1-6-15: Run-off Elections City Council Seats

1-6-1: REGULAR MEETINGS: Two (2) regular meetings of the City Council shall be held each month, respectively on the second and fourth Thursdays of each month, except the second meeting in November shall be on the Tuesday preceding the fourth Thursday. The regular meeting place shall be the City Council Chambers located in the City Hall Annex building at 680 Park Avenue, Idaho Falls, Idaho. Regular meetings shall commence at 7:30 p.m. The Mayor shall have the power to recess any meeting to a different place or time upon giving lawful notice thereof.

1-6-2: SPECIAL MEETINGS: Any four (4) Council members may call a special meeting of the Council provided the object of which shall be submitted to the Council in writing, and the call and object of the meeting and all minutes required to be kept by law shall be entered upon the journal kept by the Clerk.

1-6-3: OPEN MEETINGS: All regular and special meetings of the Council shall be open to the public, except the Council may retire into a closed executive session upon a two-thirds roll-call vote recorded in the minutes of the meetings after the presiding officer has identified the statutory authorization for such meeting under the provisions of the Idaho Code. The City Clerk shall record the vote of Council to retire into executive session and the Clerk shall state in the minutes the general purpose for such session. The Clerk or any other person appointed by the Mayor shall keep such minutes as will indicate the general tenor of the meeting, which minutes shall be recorded in the Clerk's journal. No final decision for which an affirmative vote of a majority of the Council is required by law, may be made while the Council is in executive session. For the purposes hereof, the term "meeting" shall mean any convocation of the members of the Council for the purpose of making a decision or deliberating toward a decision on any matter. Nothing herein shall apply to any convocation of less than a quorum of the members of the Council. (Ord. 2771, 8-14-08; Ord. 3012, 7-9-2015)
1-6-4: OATH; TERM OF OFFICE: The Council members shall take office after ascribing to the oath of office and upon receipt of their certificates of election. Subscription to the oath of office and delivery of the certificates of election shall be done at the first regular Council meeting in January of the year following a general election. Newly elected members shall be sworn into office in the same order as the number of votes cast for each member at the same election, with the member receiving the most votes to be sworn first. Each member shall serve for a term of four (4) years, or until his or her successor is elected and sworn, whichever is longer.

1-6-5: COMPENSATION OF COUNCIL MEMBERS: In addition to compensation for which a City employee is eligible (health coverage, PERSI contribution, cost of living increases, travel reimbursement, and the like) the Council members shall receive a bi-weekly salary of four hundred eighty dollars and seventy-seven cents ($480.77), provided such salary shall be increased upon the effective date set forth below, as follows:

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<th>Effective Date</th>
<th>Amount of Bi-weekly Salary</th>
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<td>January 1, 2017</td>
<td>$500.00</td>
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(Ord. 2310, 2-25-99; Ord. 3015, 8-13-2015)

1-6-6: PRESIDENT OF THE COUNCIL: At the first regular Council meeting in January of the year following a general election, the Council shall elect one of the Council members as President of the Council. The President of the Council shall preside at all meetings in the absence of the Mayor. During any temporary absence or disability of the Mayor, the President of the Council shall exercise the office of the Mayor until the Mayor shall return or the disability is removed. In case of vacancy in the office of Mayor, the President shall exercise the office of Mayor until such vacancy is filled. In the temporary absence of the Mayor and the President of the Council, the senior member of the Council, as determined from the date and order of swearing in, shall temporarily serve as the President of the Council until the Mayor or President returns.

1-6-7: CONSENT AGENDA: Whenever the Mayor considers an item to be routine and non-controversial, he or she may place the same on the consent agenda for consideration at any regular meeting of the Council, provided, however, any action which may be taken only by ordinance may not be placed on the consent agenda. Items of business on the consent agenda may include, but need not be limited to the following: approval of minutes; approval of citizen appointments; referrals to committees; approval of reports; approval of authorization of communications; approval of resolutions or other items which had been considered by the Council at earlier meetings and setting of public hearings. The consent agenda may be considered by the Council as a single item and may be introduced by a motion to approve the consent agenda. On objection to the inclusion of any item on the consent agenda by any member of the Council, that item shall be removed from the consent agenda and may be considered at any time in the meeting which the Mayor deems appropriate. Neither a formal motion nor a second is necessary to remove an item from the consent agenda. Such objections shall be recorded prior to taking the vote to approve the consent agenda. There shall be no debate or discussion of any item on a consent agenda beyond asking questions for a simple verification. Passage of the consent agenda shall be fully equivalent to approval, adoption, or enactment of each motion, resolution or other item of business thereon as if each item thereon had been acted upon individually.
Approval of the motion must be by a roll call vote. The City Clerk shall record in the Council minutes each item passed under the consent agenda, individually and in full.

1-6-8: FUNDS CONTROLLED BY COUNCIL: All monies and funds belonging to or controlled by the City shall be controlled and administered by the Mayor and Council in the manner required by law and subject to all ordinances and rules and regulations adopted by the Council as may be necessary for the efficient and prudent use and protection of the same.

1-6-9: ELECTION OR APPOINTMENT BY COUNCIL SEAT: All members of the Council shall be elected or appointed to a designated seat on the Council. The City Clerk shall assign a permanent number from one to six for each council seat. Candidates for odd-numbered seats shall stand for election in one biennial election and candidates for even-numbered seats shall stand for election in the next biennial election. The Clerk shall maintain a written record of the numbers assigned to each seat and the identity of the Council member occupying the same. The City Clerk shall provide a copy of such record upon request of any person during the regular office hours of the Clerk.

1-6-10: DECLARATION OF CANDIDACY: Each candidate shall file a Declaration of Candidacy with the City Clerk before any Petition of Nomination is signed or circulated. Such declaration shall be in substantially the following form:

DECLARATION OF CANDIDACY

I, the undersigned, being a qualified elector of the City of Idaho Falls, State of Idaho, hereby declare myself to be a candidate for the office of City Councilmember, Seat No. _____, for a term of four (4) years, to be voted for at the election to be held on the _____ day of _______________, 19____, and certify that I possess or will possess the legal qualifications to fill said office, and that my mailing address is ________________________________, Idaho Falls, Idaho ___________.

(Signed)  
Candidate

STATE OF IDAHO )
  : ss.
County of Bonneville )

SUBSCRIBED AND SWORN to before me this _____ day of ________________, 19____.

_______________________________________  
Notary Public for Idaho  
Residing at: ______________________________  
My commission expires: __________________

1-6-11: INCUMBENTS; MULTIPLE DECLARATIONS PROHIBITED: Any person who is a member of the Council at the time his or her Declaration of Candidacy is filed shall seek election only for the council seat for which he or she was previously elected or appointed. A candidate for election may not seek election for more than one seat at any general election.
1-6-12: ELECTIONS AND PETITIONS FOR NOMINATION: All elections shall be nonpartisan in nature and shall be conducted in the manner provided in Chapter 4, Title 50, Idaho Code. Candidates for election to the Council shall be nominated by petition in the manner provided by law and in accordance with this Chapter. The number of qualified electors required to sign a petition shall be one (1) per each one hundred (100) population or fraction thereof, but in no event more than forty (40). A qualified elector may sign no more than one nominating petition for any council seat up for election. Any such duplicate signature shall be void for all petitions signed in violation of this section.

1-6-13: FORM OF PETITION: Petitions of Nomination shall be in substantially the same form as follows:

PETITION OF NOMINATION

We, the undersigned, do hereby join in a petition for the nomination of _______________________, whose residence is at (street address) _______________________, Idaho Falls, Idaho, for the office of City Councilmember, Seat No. _____, for the term of four (4) years, to be voted at the general City election to be held in the City of Idaho Falls on the ______ day of _____________________, 19____, and do further certify that we are registered qualified electors and are not at this time the signers of any other petitions nominating any other candidate for the council seat designated above.

(Signed)               (Address)             (Date)

This petition of nomination, if found insufficient, shall be returned to (name) , at (address) , Idaho.

1-6-14: VALIDITY OF SIGNATURES: The number of the council seat for which nomination is sought shall be stated upon the Petition for Nomination before any signature is affixed thereon. All persons who sign the petition shall record thereon the correct date on which they sign the petition. Any signatures obtained in violation of this section shall be void.

1-6-15: RUN-OFF ELECTIONS CITY COUNCIL SEATS: A majority of the votes cast for the office of city council member shall be required for election of any candidate to that office. In the event no candidate in any City Council seat race, receives a majority of the votes cast at any general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes cast. In the event of a tie between the candidates receiving the second and third highest number of votes cast, selection of the candidate to oppose the candidate receiving the highest number of votes, shall be decided by the toss of a coin. Such run-off election shall be conducted in the same manner as for a general election and within thirty (30) days of the general election, and shall not be subject to the limitations set forth in Idaho Code Sections 34-106 and 50-429. The first notice of election shall be published by the City Clerk in the official newspaper not less than twenty (20) days next preceding any
run-off election, and the designation of polling places shall be made by the City Clerk prior to such publication. The results of such run-off election shall be subject to any change in outcome as a result of a recount of the ballots pursuant to Idaho Code Section 50-471. If, as a result of such recount, a candidate receives a majority of the votes cast and such recount becomes final at least forty-eight (48) hours prior to the commencement of such run-off election, the run-off election may be canceled by order of the City Council.
CHAPTER 7
APPOINTIVE OFFICERS

SECTION:

1-7-1: Appointment
1-7-2: Duties
1-7-3: Bonds
1-7-4: Personnel Policy and Code of Conduct
1-7-5: Reports and Accounts

1-7-1: APPOINTMENT: The Mayor shall, subject to confirmation by the Council, appoint a city clerk, treasurer, city attorney, physician and such other appointive officers deemed necessary for the efficient operation of the City. The Mayor may suspend or remove any person from an appointive office, subject to the confirming vote of a majority of the Council, and the Council may, by unanimous vote without the Mayor's concurrence, suspend or remove such officers.

1-7-2: DUTIES: All appointed officers shall have such duties as may be prescribed by ordinance or by a written agreement approved by the Council. (Ord. 3041, 10 Dec 2015).

1-7-3: BONDS: No bond shall be required of any appointive officer except as expressly required by this Code. (Ord. 3041, 10 Dec 2015).

1-7-4: PERSONNEL POLICY AND CODE OF CONDUCT: All full-time appointive officers shall be subject to the City Personnel Policy and Code of Conduct. (Ord. 3041, 10 Dec 2015).

1-7-5: REPORTS AND ACCOUNTS: The Mayor and City Council may require any appointive officer to exhibit his or her accounts, papers or other documents and to make written reports pertaining to his or her office. (Ord. 3041, 10 Dec 2015).
CHAPTER 8
EMPLOYEE POLICIES AND PROCEDURES

SECTION:

1-8-1: Appointment
1-8-2: Personnel Policy and Code of Conduct
1-8-3: Salaries and Classification
1-8-4: Rules and Regulations
1-8-5: Availability of Policies
1-8-6: Deferred Compensation

1-8-1: APPOINTMENT: All appointive officers and all employees of the City shall serve at the discretion of the Mayor and Council and shall have no right of continued employment or employment benefits, except as agreed in writing and expressly approved by the Council or as authorized in the City Personnel Policy, as expressly approved by the Council. (Ord. 3171, 4-12-18).

1-8-2: PERSONNEL POLICY AND CODE OF CONDUCT: All employees shall be subject to the Personnel Policy and Code of Conduct as approved by the Council, except to the extent such Personnel Policy or Code of Conduct is inconsistent any written contract approved by the Council, in which case, the contract shall control. (Ord. 3171, 4-12-18).

1-8-3: COMPENSATION: All employees, including appointive officers, shall receive such salaries, benefits, and other compensation as determined by the Council by ordinance (including the City’s annual amended appropriation ordinance), resolution, written collective bargaining agreement, or other agreement. (Ord. 3041, 12-10-15)

1-8-4: RULES AND REGULATIONS: All employees shall abide by rules and regulations adopted by the Council and the Department in which they are employed and by rules and regulations adopted by the Human Resources Department and approved by the Mayor. (Ord. 3003, 4-23-15; Ord. 3171, 4-12-18).

1-8-5: AVAILABILITY OF POLICIES: Any person hired after the effective date of this Code shall be given a copy of the Personnel Policy, the Code of Conduct and his or her pay grade classification schedule at the time he or she is hired. Notwithstanding the foregoing, nothing herein shall prevent the application or enforcement of any policy or procedure set forth in the Personnel Policy or Code of Conduct in the event an employee fails to receive a copy thereof at the time of his or her employment. One copy of the Personnel Policy, Code of Conduct and classified pay grade schedules shall be maintained in the office of the City Clerk, Personnel Department and each department of the City. If the Personnel Policy or Code of Conduct is amended or modified after the effective date of this Code, a copy of such amendment or modification shall be posted for a period of not less than two weeks in the office of the City Clerk, Personnel Department and in a conspicuous place in each of the administrative offices of each department of the City. (Ord. 3003, 4-23-15)

1-8-6: DEFERRED COMPENSATION: The Mayor and City Council may, by ordinance or by contract, provide for any retirement plan, deferred compensation plan, insurance benefits or other program benefits permitted by law.
CHAPTER 9
OATH, BONDS AND OFFICIAL CONDUCT

SECTION:

1-9-1: Oath
1-9-2: Bonds
1-9-3: Qualifications of Elective Officers
1-9-4: Interest in Contracts
1-9-5: Nepotism
1-9-6: Payments Unlawful
1-9-7: Payments for Public Services Prohibited
1-9-8: Public Accounts Required
1-9-9: Bribery
1-9-10: Compensation for Past Official Behavior
1-9-11: Gifts to Public Servants
1-9-12: Compensation for Assisting Private Interests
1-9-13: Interest in Sales
1-9-14: Unlawful Payment of Warrants

1-9-1: OATH: Every elective officer of the City, before duty, shall take and subscribe before a person authorized to administer public oaths, an oath substantially in the following form:

I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, the Constitution and Laws of the State of Idaho and the City of Idaho Falls, and that I will faithfully discharge the duties of (insert office) according to the best of my ability.

Said oath shall be certified by the officer before whom it was taken and the subscribed oath and certification shall be filed with the City Clerk.

1-9-2: BONDS: Before performing any duties of their respective offices, the following appointive officers shall furnish an official bond in the following amounts:

Director of Municipal Services $5,000
Controller $5,000
Clerk $5,000
Treasurer $5,000
Deputy Treasurer $5,000
Purchasing Agent $1,000
Water Superintendent $2,000
City Engineer $1,000
Fire Chief $1,000
Street Superintendent $1,000

All officers and employees of the Police Department shall be covered by a blanket bond as follows:

Chief of Police $2,000
All other officers or employees $1,000

All office employees in the Mayor and City Clerk's office and all building inspectors shall be covered a blanket bond in the amount of five thousand dollars ($5,000).

Such bonds shall be approved by the Mayor and Council and shall be filed with the Clerk, except the bond of the City Clerk, which shall be filed with Mayor. The premiums on such bonds shall be paid by the City. (Ord. 3003, 4-23-15)

1-9-3: QUALIFICATIONS OF ELECTIVE OFFICERS: No person shall hold any elective office unless he or she is a qualified elector of the City at the time of his or her election.

1-9-4: INTEREST IN CONTRACTS: No elective or appointive officer of the City shall have any interest in any contract prohibited by state law. No employee of the City shall have any interest in any contract in which he or she shall have any official discretion regarding the execution or administration thereof.

1-9-5: NEPOTISM: It shall be unlawful for any elective or appointive officer of the City to appoint or vote for the appointment of any person related to such officer or any of his or her associates in office by affinity or consanguinity within the second degree to any clerkship, office, position, employment or duty when the salary or compensation of such appointee is to be paid out of public funds.

1-9-6: PAYMENTS UNLAWFUL: No officer or employee of the City shall pay out of any public funds under his or her control or to draw or authorize the drawing of any warrant or authority for payment out of any public fund, any salary or compensation of a person who is ineligible under the preceding section.

1-9-7: PAYMENTS FOR PUBLIC SERVICES PROHIBITED: It shall be unlawful for any officer or employee of the City of Idaho Falls to personally accept payment for any service performed by such employee in the ordinary course of employment.

1-9-8: PUBLIC ACCOUNTS REQUIRED: It shall be unlawful for any elective or appointive officer who receives fees for services, or who receives public monies for safekeeping, to fail to keep a public account in which all receipts of fees or monies are entered. Such account shall also include a statement of whom and on what account such monies or fees are received. It shall also be unlawful for any elective of appointive officer to fail to keep a like account of all disbursements of public monies and to whom and on what account the same were paid.

1-9-9: BRIBERY: It shall be unlawful for any officer or employee of the City to accept any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or to accept any benefit as consideration for a violation of a known legal duty as a public servant.

1-9-10: COMPENSATION FOR PAST OFFICIAL BEHAVIOR: It shall be unlawful for any officer or employee of the City to accept or agree to accept any pecuniary benefit as compensation for having as a public servant, given the decision, opinion, recommendation or vote favorable to another or for having otherwise exercised a discretion in his favor, or for having violated his duty.
1-9-11: GIFTS TO PUBLIC SERVANTS:

(A) It shall be unlawful for any officer or employee of the City exercising regulatory functions or conducting inspections or investigations, or carrying on civil or criminal litigation on behalf of the City, or having custody of a prisoner, to solicit, accept or agree to accept any pecuniary benefit from a person known to be subject to such regulation, inspection, investigation or custody or against whom such litigation is known to be pending or contemplated.

(B) It shall be unlawful for any officer or employee of the City having any discretionary function to perform in connection with contracts, purchases, payments, claims or other pecuniary transactions of the government to solicit, accept or agree to accept any pecuniary benefit from any person known to be interested in or likely to become interested in any such contract, purchase, payment, claim or transaction.

(C) For the purposes of this section, the term "pecuniary benefit" shall mean any benefit in the form of money, property, or any other thing the primary significance of which is economic gain, but excluding any advantage promised generally to a group or class of voters as a consequence of public measures which such officer supports or opposes.

(D) This section shall not apply to:

1. fees prescribed by law to be received by such officer or employee or any other benefit for which the recipient gives legitimate consideration or to which he is otherwise legally entitled;

2. gifts or other benefits on account of kinship or other personal, professional or business relationship independent of the official status of the receiver;

3. trivial benefits incidental to personal or business contacts and having no substantial risk of undermining official impartiality.

1-9-12: COMPENSATION FOR ASSISTING PRIVATE INTERESTS: It shall be unlawful for any officer or employee of the City to solicit accept or agree to accept compensation for advice or other assistance in preparing or promoting a bill, contract, claim or other transaction or proposal as to which such officer or employee knows that he or she has or is likely to have an official discretion to exercise.

1-9-13: INTEREST IN SALES: It shall be unlawful for any officer or employee of the City to be a purchaser at any sale made by them in their official capacity, or to act as a vendor at any purchase made by them in their official capacity.

1-9-14: UNLAWFUL PAYMENT OF Warrants: It shall be unlawful for any officer or employee of the City charged with the disbursement of public monies to pay any warrant or any other evidence of indebtedness when the same has been purchased, sold, received or transferred contrary to the provisions of this Chapter.
CHAPTER 10
ORDINANCES

SECTION:

1-10-1: Presentment of Ordinances
1-10-2: Manner of Passage
1-10-3: Passage
1-10-4: Veto by Mayor; Passage over Mayor's Veto
1-10-5: Veto Certificate
1-10-6: Becoming Law Without Mayor's Signature
1-10-7: Certificate
1-10-8: Passage Date
1-10-9: Publication and Effective Date
1-10-10: Recording of Ordinances
1-10-11: Book of Ordinances

1-10-1: PRESENTMENT OF ORDINANCES: Ordinances may be considered only at a regular meeting or a special meeting of the Council called for that purpose. All ordinances shall be presented in writing and the passage, execution and publication thereof shall conform to the provisions of this Chapter.

1-10-2: MANNER OF PASSAGE: Every ordinance shall be read at three different Council meetings, two (2) readings of which may be by title only, and one (1) reading of which shall be in full, unless one-half plus one of the members of the Council shall dispense with this rule. An ordinance shall contain no subject which is not clearly expressed in its title and no ordinance or sections thereof shall be revised or amended unless the new ordinance contains the entire ordinance or sections as revised or amended, and the ordinance or section so revised or amended is repealed in its entirety. The passage or adoption of ordinances of a general and permanent nature, shall be by roll call and the yeas and nays shall be recorded by the Clerk. To pass or adopt any ordinance, a concurrence of a majority of the Council shall be sufficient, unless a greater number of votes is required by this Code or by state law.

1-10-3: PASSAGE: When any ordinance is passed, it shall forthwith be signed by the Mayor and attested by the Clerk, and the date of its passage by the Council shall be stated thereon. The Clerk shall attach to each ordinance a certificate of its authenticity, passage and execution and the seal of the City shall be impressed on the original thereof.

1-10-4: VETO BY MAYOR; PASSAGE OVER MAYOR'S VETO: If the Mayor neglects or refuses to sign an ordinance, he shall return the same to the Council with his or her objections and veto in writing on or before the date of the next regular meeting of the Council following its passage. When an ordinance is so returned by the Mayor the Council may reconsider the same. If four members of the Council approve the ordinance, it shall become law notwithstanding the Mayor's veto.

1-10-5: VETO CERTIFICATE: When any ordinance has been passed over the Mayor's veto, the Clerk shall attach a certificate to the ordinance stating the same was vetoed by the Mayor and that it received the required vote of the Council and the date of such action.
1-10-6: BECOMING LAW WITHOUT MAYOR'S SIGNATURE: If the Mayor refuses or neglects to sign any ordinance and fails to return the same to the Council in accordance with Section 1-10-4 above, it shall become effective without his signature.

1-10-7: CERTIFICATE: When any ordinance has become effective without the signature of the Mayor, the Clerk shall certify thereon that the Mayor has failed to sign or veto the ordinance, and that it has become effective without his signature.

1-10-8: PASSAGE DATE: An ordinance shall be considered passed on the date of its execution by the Mayor. In the case of passage pursuant to Section 1-10-4 the ordinance shall be deemed passed on the date of the regular meeting at which the ordinance was passed by the Council over the Mayor's veto. In the case of passage pursuant to Section 1-10-6, the ordinance shall be deemed passed at the conclusion of the next regular meeting following the meeting at which it was originally passed by the Council.

1-10-9: PUBLICATION AND EFFECTIVE DATE: All ordinances shall become effective upon their publication in the Official Newspaper and proof of publication thereof is filed with the Clerk. In lieu of publishing the entire ordinance, the City may publish a summary of the ordinance in accordance with Section 50-901(A), Idaho Code. Approval of the summary by the Council and the City Attorney shall be conclusive with respect to the completeness, adequacy and accuracy of the summary.

1-10-10: RECORDING OF ORDINANCES: The Clerk shall keep all original ordinances as passed, executed and published in a book provided by the City.

1-10-11: BOOK OF ORDINANCES: The City shall provide a book to be known as the City Ordinance Book.
CHAPTER 11
ELECTIONS

SECTION:

1-11-1: Conduct of Elections
1-11-2: Election Precincts
1-11-3: Campaign Expenditures
1-11-4: Opening and Closing of Election Polls

1-11-1: CONDUCT OF ELECTIONS: The conduct of all general and special elections, the nomination of candidates for elective office, notices of election, qualifications of elector and officers, and appointment and compensation of deputy registrars and election officials, provision for polling places, canvassing of the election returns, and all other election procedures of the City, shall be governed by Chapter 4, Title 50, Idaho Code. The registration of qualified electors shall conform to Title 34, Idaho Code.

1-11-2: ELECTION PRECINCTS: Unless otherwise determined by ordinance or resolution of the City Council, all election precincts within the City shall conform to the precinct boundaries established by the Bonneville County Board of Commissioners pursuant to the provisions of Chapter 3, Title 34, Idaho Code.

1-11-3: CAMPAIGN EXPENDITURES: The provisions of Sections 67-6601 through 67-6623 and 67-6623 through 67-6628, Idaho Code, insofar as they relate to the reporting of campaign contributions, shall apply to all elections for Mayor and members of the Council.

1-11-4: OPENING AND CLOSING OF ELECTION POLLS: At all general elections of the City, the polls shall be opened at 8:00 a.m. and shall remain open until all registered electors of that precinct have voted or until 8:00 p.m. of the same day, whichever occurs first. At all special elections of the City, the polls shall be opened at such time as may be established by ordinance and shall remain open until all registered electors of that precinct have voted or until 8:00 p.m. of the same day, whichever comes first.
CHAPTER 12
INITIATIVE, REFERENDUM AND RECALL

SECTION:

1-12-1:    Direct Legislation
1-12-2:    Approval of Initial Petitions For Initiative and Referendum
1-12-3:    Review of Initiative and Referendum Petitions by City Attorney
1-12-4:    Circulation of Final Petitions
1-12-5:    Filing and Examination of Final Initiative and Referendum Petitions
1-12-6:    Removal of Signatures
1-12-7:    Delivery of Notices to Petitioner
1-12-8:    Signature Requirements
1-12-9:    Submission to Popular Vote
1-12-10:   Prohibited Actions; Penalties
1-12-11:   Computation of Time
1-12-12:   Submission on Council's Own Motion
1-12-13:   Form of Ballot
1-12-14:   Publication
1-12-15:   Inconsistent Measures
1-12-16:   Required Time Between Elections
1-12-17:   Limitations of Right
1-12-18:   Recall

1-12-1:    DIRECT LEGISLATION:

(A)    The people of the City of Idaho Falls, in addition to the method of legislation otherwise provided, shall have the power of direct legislation by initiative and referendum.

(B)    For the purposes of this Chapter, "initiative" means the right of the people at an election to adopt, amend or repeal legislation. "Referendum" means the right of the people at an election to reject legislation adopted by the City Council. (Ord. 2854, 12-16-10)

1-12-2:    APPROVAL OF INITIAL PETITIONS FOR INITIATIVE AND REFERENDUM:

(A)    Before beginning to circulate any petition for the referendum to the people of any ordinance passed by the City Council, or for any ordinance proposed by initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the City Clerk an initial petition duly signed by at least twenty (20) qualified electors of the City. A full and correct copy of the ordinance or measure so proposed by initiative petition, or a full and correct copy of the ordinance or measure on which the referendum is demanded, as the case may be, shall be attached to such initial petition. An electronic or digital copy of the proposed ordinance or measure, in Word, WordPerfect or ASCII format, using such storage media as may be determined by the City Clerk, shall also accompany the filing. Ordnances proposed by initiative shall contain a blank line for the ordinance number and a descriptive title at the top of the page, an ordaining clause as required by Section 50-901, Idaho Code, separately numbered sections with descriptive section titles, signature lines for the Mayor and City Clerk, and shall generally conform to the ordinance style determined by the City Clerk. The City Clerk shall, upon request,
provide to the petitioners a sample copy of an ordinance conforming to such style. Upon request, the City Clerk shall also provide to such persons one photocopy or digital copy of any ordinance or Chapter in the City Code which is proposed to be subject to referendum.

(B) Upon receipt of a complete petition conforming to the requirements of the preceding section, the City Clerk shall expeditiously determine whether the petition contains the requisite number of signatures and conforms to the required ordinance style. In making such determination, the City Clerk may consult with the Bonneville County Election Clerk in order to determine whether all signators on the petition are qualified electors. Upon completion of such determination, the Clerk shall forthwith notify the petitioner or petitioners of such determination. If the requisite number of signatures is reflected upon the petition, and the petition and accompanying measure are in proper form and style, the City Clerk shall file the petition in his or her office and immediately transmit a copy of the petition to the City Attorney for the issuance of the certificate of review as provided in section three (3) of this Chapter.

(C) Initial petitions for referendum containing the requisite number of signatures shall be filed with the City Clerk not less than sixty (60) days following final publication of the subject ordinance, as provided in § 50-901, Idaho Code.

(D) Concurrently with the filing of an initial petition for initiative or referendum, the petitioner or petitioners shall complete and deliver to the City Clerk an application form stating his or her name, mailing address and telephone number. The application form shall be in such form as may be prescribed by the City Clerk. (Ord. 2854, 12-16-10)

1-12-3: REVIEW OF INITIATIVE AND REFERENDUM PETITIONS BY CITY ATTORNEY:

(A) After receiving a copy of the petition from the City Clerk, the City Attorney may confer with the petitioner and shall, within twenty (20) business days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revisions or alterations of the measure as may be deemed necessary and appropriate. The recommendations of the City Attorney shall be advisory only and the petitioner may accept or reject them in whole or in part. The City Attorney shall issue and file a certificate of review with the City Clerk certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been delivered to the petitioner. Such certificate shall be issued whether or not the petitioner accepts the City Attorney's recommendations. The certificate of review shall be available for public inspection in the office of the City Clerk. Within fifteen (15) business days after the filing of the certificate of review, the petitioner, if he or she desires to proceed with sponsorship of the petition, shall file the measure with the City Clerk who shall assign a number to the measure and shall forthwith submit to the City Attorney two (2) copies of the measure filed. Within five (5) business days after receiving such copies, the City Attorney shall provide a ballot title therefor and return one of said copies to the City Clerk, together with the ballot title so prepared by him. A copy of the ballot title as prepared by the City Attorney shall be furnished by the City Clerk with his or her approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred. The approved ballot title shall be used and printed on each petition or copy thereof when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures. The ballot title shall contain (1) a distinctive short title not exceeding twenty (20) words by which the measure is...
commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition, and (2) a statement title expressing in not more than two hundred (200) words the purpose of the measure. In drafting such ballot title the City Attorney shall provide a true and impartial statement of the purpose of the measure. The ballot title shall be included as part of the measure when it is printed on the official ballot for any election to consider an initiative or referendum measure.

(B) Any person who is dissatisfied with the ballot title or the short title provided by the City Attorney, may petition to the District Court of Bonneville County, praying for a different title and setting forth the reason why the title prepared by the City Attorney is insufficient, prejudicial or unfair. No petition shall be allowed from the decision of the City Attorney on a ballot title unless the same is taken within twenty (20) days after the ballot title is filed in the office of the City Clerk. The District Court of Bonneville County shall thereupon examine the measure, hear argument, and in its decision thereon certify to the City Clerk a ballot title and a short title for the measure in accordance with this section. The City Clerk shall print on the official ballot for any special election subsequently ordered, the title thus certified. Any qualified elector of the City may, at any time after the City Attorney has issued a certificate of review, bring an action in the District Court of Bonneville County to determine the constitutionality of any initiative.

(C) Upon printing of the petition with the measure number, and title page and ballot title approved by the City Attorney, or the Court, as the case may be, the petition shall be deemed final and may thereafter be circulated for signature in the manner described in the next section. Any petition circulated without compliance with sections two (2) and three (3) of this Chapter shall be void and shall not be submitted for public vote or approval until such compliance has been made. (Ord. 2854, 12-16-10)

1-12-4: CIRCULATION OF FINAL PETITIONS:

(A) After the form of the initiative or referendum petition has been finally approved and a ballot title assigned, it may be circulated and signatures thereon sought by the person or persons whose organization or organizations under whose authority the measure is to be referred or initiated. Any person who physically circulates any petition for an initiative or referendum shall be a qualified elector of the City. All signatures affixed to each copy of the petition shall be signed in the presence of the person circulating such copy.

(B) All petitions for the initiative and for the referendum and copies circulated for signatures shall be printed on good quality bond or ledger paper in the form and manner as approved by the City Clerk. Each petition and copy circulated shall have as its first page a cover page which contains the short title and petition number as required under Section 1-12-3(A) of this Chapter. Before any petition or copy is circulated for signature, a full and correct copy of the measure so proposed by initiative petition shall be stapled or otherwise physically attached thereto. Each petition or copy may be separately numbered for convenience in handling. To every referendum and every copy of a referendum petition circulated for signature shall be similarly attached a cover page and a full and correct copy of the ordinance on which the referendum is demanded. Each such copy may also be separately numbered in like manner as initiative petitions.

(C) Initiative petitions shall be in substantially the following form:

Initiative Petition No. _____

CITY CODE OF THE CITY OF IDAHO FALLS 28
WARNING
IT IS A MISDEMEANOR FOR ANYONE TO SIGN ANY INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR TO KNOWINGLY SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITION WHEN HE IS NOT A QUALIFIED ELECTOR.

We, the undersigned, being qualified electors of the City of Idaho Falls, State of Idaho, hereby declare that we have read, or heard read at length, section by section, the proposed ordinance or measure attached hereto as Exhibit "A" and fully understand its contents, meaning and purpose, and believe it should become a law of the City for the following reasons: (here state the reasons in not more than two hundred (200) words).

We herewith request such ordinance or measure be submitted to a vote of the people, if not first passed by the City Council.

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I,_________________, being first duly sworn, say: That I am a qualified elector of the City of Idaho Falls; that every person who signed this copy of the foregoing petition signed his or her name thereto in my presence; I believe that each signer has correctly stated his or her name, address and signature date and that each signer is a qualified elector of the City of Idaho Falls.

________________________
(Signature)
(Street address)

Subscribed and sworn to before me this ___day of _________, 20____.

________________________
(Notary Public
State of Idaho
Residing at: ______________
(D) Referendum petitions shall be in substantially the same form as initiative petitions, except they shall have the following caption "Referendum Petition No. ____" and shall contain the following petition language: "We, the undersigned, being qualified electors of the City of Idaho Falls, Idaho, declare that we have read, or heard read in full (insert ordinance number subject to referendum) and we understand its contents, meaning and purpose and believe it should not become a law of the City for the following reasons: (State reasons why ordinance should not be passed in two hundred (200) words or less.) We request that a referendum vote be called on this ordinance at a special election called for such purpose."

(E) Any number of copies of the petition and proposed ordinance or referred ordinance may be circulated at the same time and when filed with the City Clerk all shall be considered as one petition, but each copy of the petition must be separately numbered and verified by a qualified elector of the City prior to its filing with the City Clerk.

(F) Any final petition or copy thereof circulated in violation of this Section or §§ 1-12-2 or 1-12-3 of this Chapter shall be void. Any signature signed in violation of this Section shall be void. (Ord. 2854, 12-16-10)

1-12-5: FILING AND EXAMINATION OF FINAL INITIATIVE OR REFERENDUM PETITIONS:

(A) Each copy of an initiative or referendum petition with signatures thereon, accompanied by the proposed or referred ordinance physically attached to each such copy, shall be filed with the City Clerk, along with a statement by the petitioner or petitioners requesting the filing of the petition and further requesting a special election be held on the measure attached to the petition. Such filing shall be made within one hundred eighty (180) days after the date of the City Clerk’s final approval in accordance with § 1-12-3 of this Chapter. Multiple filings of the same petition or copies thereof shall not be permitted and any petition or copy thereof or signature sheet filed after the first filing of a final measure shall be void, provided however nothing herein shall be construed to prohibit the filing of additional signature sheets in accordance with subsection (C) of this section.

(B) In order to qualify for submission of the measure to the voters at a special election, the petition for initiative or referendum must be signed by qualified electors, the total number of which equals or exceeds twenty percent (20%) of the total number of voters who voted at the last general election of the City.

(C) Upon the filing of such final petition, the Clerk shall verify whether or not the petition is signed by the requisite number of qualified electors and otherwise conforms to state law and the provisions of this Chapter. Verification of the petition and the signatures thereon by the City Clerk shall be as prescribed in Section 34-1807, Idaho Code. The signatures affixed to the initial initiative or referendum petition shall be considered in determining whether the requisite number of signatures has been obtained and shall for such purposes be thereafter considered as part of the final petition. The Clerk shall attach to the petition a certificate showing the result of such examination and if the petition is found insufficient, the certificate shall state the reasons therefor and the changes necessary to conform to law. The City Clerk may request the advice and counsel from the City Attorney for the purpose of determining the sufficiency of the petition. The Clerk's certificate shall be filed in the Clerk's office within fourteen (14) days after the petition was filed with the City Clerk, and the Clerk shall notify the person filing such petition of the filing of the Clerk's certificate, which notice shall be
in writing and shall be delivered within three (3) business days after the filing of the certificate. If, by the Clerk’s certificate, the petition is shown to be insufficient or defective, it may be amended, additional signatures added, or otherwise perfected, within thirty (30) days from the date of said certificate. If the petition is not so perfected and filed with the City Clerk within such thirty (30) day time frame, the Clerk shall declare the petition null and void.

(D) Upon determining that the required number of signatures has been met and that the petition and signatures conform to the requirements of this Chapter, the City Clerk shall issue a final certification and shall order an election be held on the next available election date allowed under Section 34-106, Idaho Code. The Clerk shall submit a copy of such certification and order to the Council at its next regular meeting, provided however, if the Clerk’s certification is made less than two (2) business days prior to the next regular Council meeting, the certificate and order may be submitted to the Council at the next following regular Council meeting.

(E) If the City Clerk shall refuse to accept, file or certify any petition for the initiative or for the referendum in proper form and with the requisite number of signatures of qualified electors thereto attached, or to order a special election as required under this Chapter, any citizen may apply, within ten (10) business days after such refusal, to the District Court for a writ of mandamus to compel the City Clerk to do so. Alternatively, if the City Clerk shall improvidently accept, file or certify any petition for the initiative or for the referendum, or improvidently order a special election, any citizen may similarly apply, within ten (10) business days after such acceptance, filing or certification, to the District Court for a writ of prohibition to prohibit such action. If the District Court grants the writ of mandamus, the City Clerk shall then file the writ in his or her office, with a certified copy of the judgment or writ attached thereto, as of the date on which it was originally offered for filing in his office and shall proceed as directed by such writ. On a determination that a writ of prohibition should be granted, the court may enjoin the City Clerk and any other elected or appointed officer from certifying or printing on the official ballot for the ensuing election the initiative or referendum measure which was the subject of such writ. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. (Ord. 2854, 12-16-10)

1-12-6: REMOVAL OF SIGNATURES:

(A) The signer of any final initiative or referendum petition may remove his or her own name from the petition by crossing out, obliterating or otherwise defacing his or her own signature at any time prior to the time when the petition is presented to the City Clerk for signature verification in accordance with Section 1-12-5 of this Chapter.

(B) The signer of any final initiative or referendum petition may have his or her name removed from the petition at any time after presentation of the petition to the City Clerk but prior to issuance of the Clerk’s certification in accordance with § 1-12-5(E) hereof, by presenting or submitting to the City Clerk a signed statement that the signer desires to have his or her name removed from the petition. The statement shall contain sufficient information to clearly identify the signer. The City Clerk shall immediately strike the signer’s name from the petition and adjust the total number of certified signatures on the petition accordingly. The statement shall be attached to and become a part of the initiative or referendum petition. (Ord. 2854, 12-16-10)

1-12-7: DELIVERY OF NOTICES TO PETITIONER: Delivery of any notice required or allowed under this Chapter shall be presumed complete upon its physical delivery to the petitioner or
petitioners, or upon its deposit into the U.S. mail, postage prepaid, certified mail, return receipt request, addressed to the address of the petitioner or petitioners specified in the application filed in accordance with Section 1-12-2 hereof. (Ord. 2854, 12-16-10)

1-12-8: SIGNATURE REQUIREMENTS: The requirements for signature, verification of valid petitions, printing of petitions and time limits, except as expressly modified herein, shall generally conform to Chapter 18, Title 34, Idaho Code. (Ord. 2854, 12-16-10)

1-12-9: SUBMISSION TO POPULAR VOTE:

(A) Unless the City Council shall, within twenty (20) days after the date of the Clerk's certificate and Order issued under Section 1-12-5 (D) hereto, pass the proposed ordinance without alteration, a special election shall be held on the next available date permitted under Section 34-106, Idaho Code for the purpose of submitting such ordinance to the electorate. If a majority of the electors voting on the proposed initiative measure vote in favor thereof, the same shall thereupon or at the time fixed therein, become effective as a City ordinance.

(B) Unless, the Council shall, within twenty (20) days after the date of the Clerk's certificate and Order issued under Section 1-12-5 (D) hereto, repeal a referred ordinance, a special election shall be held on the next available date permitted under Section 34-106, Idaho Code for the purpose of submitting such ordinance to the electorate. If a majority of the voters voting on the measure vote in favor of such repeal, the ordinance shall thereupon become null and void. (Ord. 2854, 12-16-10)

1-12-10: PROHIBITED ACTIONS; PENALTIES:

(A) It shall be unlawful for any person to knowingly sign his own name more than once to any petition allowed under this Chapter or to sign his name to any such petition knowing himself at the time of such signing not to be qualified to sign the same.

(B) Any person circulating a petition, who knows, or who in the exercise of reasonable care should know, that a signature is forged and who shall thereafter fail to strike through and thereby void such signature, and any person in a position of supervision of such person who suffers or permits a forged signature to remain on a petition filed with the City Clerk, shall be guilty of a misdemeanor.

(C) It shall be unlawful for any person to knowingly make any false statement regarding his or her residency in a petition or to falsely represent his or her residency to any person circulating a petition, in order to induce the circulating person to allow such person to sign a petition under this Chapter.

(D) It shall be unlawful for any person who circulates a petition to swear to the oath required of persons who circulate a petition under this Chapter, if such person knows or has reason to know his or her oath is false in any material respect.

(E) It shall be unlawful for any person who has undertaken to circulate an approved petition to leave unattended any petition or copy thereof authorized under this Chapter for the purpose of gathering signatures in such person's absence.
(F) It shall be unlawful for any person submitting an application for an initial petition under Section 1-12-2 of this Chapter to refuse to allow any person to remove his or her name from a signed copy of a final petition, in the manner allowed under Section 1-12-6 hereof.

(G) It shall be unlawful for any person to physically attach a copy of the ordinance proposed by initiative or the ordinance proposed to be subject to referendum, to any initial or final petition that has been signed without such ordinance or measure attached thereto or to file or present for filing with the City Clerk any such petition, with knowledge that the petition has been so altered.

(H) It shall be unlawful for any person to file in the office the City Clerk any petition allowed under this Chapter to which is attached, appended or subscribed any signature which the person so filing such petition knows to be false or fraudulent or not the genuine signature of the person purporting to sign such petition, or whose name is attached, appended or subscribed thereto.

(I) It shall be unlawful for any person to circulate or cause to be circulated any petition allowed under this Chapter, knowing the same to contain false, forged or fictitious names.

(J) It shall be unlawful for any person to make any false affidavit concerning any petition allowed under this Chapter, or the signatures appended thereto.

(K) It shall be unlawful for any public official or employee to knowingly to make any false return, certification or affidavit concerning any petition allowed under this Chapter, or the signatures appended thereto. (Ord. 2854, 12-16-10)

1-12-11: COMPUTATION OF TIME: All references to the term "day" or "days" shall be deemed to refer to a calendar day, unless specific reference is made to a "business" day. The term "business" day shall mean any day of the week between Monday and Friday inclusive, except legal holidays prescribed by Idaho Code Section 73-108. The time in which any act provided herein must be done shall be calculated in the manner set forth in Idaho Code Section 73-109. (Ord. 2854, 12-16-10)

1-12-12: SUBMISSION ON COUNCIL'S OWN MOTION: The Council may submit to popular vote, for adoption or rejection, at any election any initiative or referendum ordinance or measure in the same manner and with the same force and effect as provided herein. The Council may also call a special advisory election to obtain a non-binding vote on any matter. (Ord. 2854, 12-16-10)

1-12-13: FORM OF BALLOT: The form of ballot and method of voting on any initiative or referendum petition shall be the same as in any general City election. If more than one initiative or referendum measure qualifies for the same election, then each measure shall be submitted on the ballot with a separate measure number, consistent with the ballot title and number determined by the City Attorney. (Ord. 2854, 12-16-10)

1-12-14: PUBLICATION: The Clerk shall publish every proposed initiative or referred ordinance at least twice in the official newspaper of this City before the date of the election at which such proposition or ordinance is to be voted upon. All special elections held pursuant to this chapter shall be conducted, the votes canvassed and the result declared, in the same manner as provided by law in respect to other City elections. (Ord. 2854, 12-16-10)
1-12-15: INCONSISTENT MEASURES: Nothing herein shall prevent two or more initiative measures concerning the same subject matter from being voted upon at the same election, provided however, if both initiative measures are approved and are inconsistent in any respect, the measure receiving the highest number of votes shall prevail, and the other shall entirely fail to become law. (Ord. 2854, 12-16-10)

1-12-16: REQUIRED TIME BETWEEN ELECTIONS: No special referendum or initiative election may be held upon any consecutive election day permitted under Idaho Code Section 34-106, with respect to any initiative or referendum measure concerning the same or substantially the same subject matter. (Ord. 2854, 12-16-10)

1-12-17: LIMITATIONS ON RIGHT: The right of initiative or referendum shall not be exercised with respect to any measure pertaining to issuance of bonds, tax levies, fiscal appropriations, planning or zoning matters, matters involving administrative discretion or any other matter in conflict with the Constitution and laws of the State of Idaho. Such right or rights shall, to the extent consistent with the Constitution of the State of Idaho, be limited to legislative matters and shall not be exercised to impair any vested contract or property right or deprive any person of due process of law. (Ord. 2854, 12-16-10)

1-12-18: RECALL: The Mayor and members of the City Council shall be subject to recall in accordance with Chapter 17, Title 34, Idaho Code. Appointive officers of the City shall not be subject to recall. (Ord. 2854, 12-16-10)
CHAPTER 13
CITY FINANCES

SECTION:

1-13-1: Presentment and Allowance of Claims
1-13-2: Tort Claims
1-13-3: Acceptance of Payment
1-13-4: Payment of Claims
1-13-5: Register of Warrants
1-13-6: Payment of Registered Warrants
1-13-7: Canceled Warrants to be Filed
1-13-8: Designation of Depositories
1-13-9: Deposit of Public Funds by Treasurer
1-13-10: Certification of Depositories by Council
1-13-11: Investment of Idle Funds
1-13-12: Compliance With State Laws

1-13-1: PRESENTATION AND ALLOWANCE OF CLAIMS:

(A) All claims for payment for goods or services for which a written purchase order or contract has been duly approved or authorized by the Council shall be filed with the Controller prior to payment thereof. All such claims shall be reviewed by the Controller and if found correct, shall be certified to and approved by the Municipal Services Committee prior to submission to the Council.

(B) All bills shall be accepted, certified for payment and paid within sixty (60) calendar days after the billing is delivered to the Controller, unless the claimant and the City have agreed by written contract for a longer period of time in which payment is to be made.

(C) All claims, accounts or invoices shall state in detail the nature of each item for which payment is sought, the date the same became due and shall be accompanied by an affidavit of the claimant or his authorized agent stating that the service was performed or that the article was furnished as therein stated, or that the liability has accrued and that the same is a just and correct statement of the claim.

(D) All claims for which payment has not been made within the time frame set forth above shall bear interest at the rate provided in Section 63-3045, Idaho Code, unless a different rate of interest or date of accrual has been agreed upon in writing between the City and the claimant.

(E) Unless otherwise agreed in writing, no payment shall be made for partial deliveries or partial completion of any services.

(F) Upon presentation of the claim to the Council, the claim may be allowed in whole or in part, and if rejected, it shall not be again considered by the Council except upon a majority vote of the whole Council to reconsider the claim.

(G) Payment of such claims shall in all other respects conform to the provisions of Idaho Code Section 67-2302.
1-13-2: TORT CLAIMS: All claims for damages against the City shall be filed with the Clerk within the time and in the manner specified by Chapter 9, Title 6, Idaho Code. When the claim is filed, the Clerk shall date stamp the claim and execute an acknowledgment of the receipt of the claim. A claim shall be considered filed upon delivery of the claim to the Clerk and upon delivery to the claimant of a date stamped, acknowledged copy of the claim.

1-13-3: ACCEPTANCE OF PAYMENT: Whenever the Council orders payment of any claim, whether in whole or in part, acceptance of any warrant or check by the claimant shall be considered a settlement in full of said claim, and the same shall not be presented for further allowance, unless upon an affirmative vote of four members of the Council.

1-13-4: PAYMENT OF CLAIMS: All claims allowed against the City shall be paid by warrant or check drawn upon the Treasurer, and signed by the Mayor, with the corporate seal of the City affixed thereto. Such warrants or checks shall also contain a statement of the amount of the appropriation and such other information as will adequately identify the claim.

1-13-5: REGISTER OF WARRANTS: The Clerk shall keep a register of all warrants drawn on the Treasurer showing the number, the date and the name of the payee, for what drawn, and upon what fund. Upon the return of the canceled warrant, the Clerk shall note in the register the date of their return.

1-13-6: PAYMENT OF REGISTERED WARRANTS: The Treasurer shall keep a register of the warrants showing the number, date, amount of each warrant, the name of the payee, for what drawn, the funds on which drawn, the date of presentment, the date of payment, and the amount paid thereon. Should any warrant be presented for payment and sufficient funds are not available to pay the same, the Treasurer shall sign the warrant and endorse thereon the words: "Presented but not paid for want of funds," giving the date of presentation and specifying the rate of interest such warrant shall draw. All warrants shall be paid in the order of presentation and registered by the Treasurer out of the appropriate funds. All warrants shall be canceled by the Treasurer when paid and shall be returned to the Clerk.

1-13-7: CANCELED WARRANTS TO BE FILED: Canceled warrants returned by the Treasurer shall be filed in the office of the Clerk.

1-13-8: DESIGNATION OF DEPOSITORYs: The West One Bank, the First Security Bank of Idaho, the First Interstate Bank, the Bank of Commerce, and the Valley Bank are hereby designated as the official depositories of the City. Notwithstanding the foregoing, the Council may designate other depositories by ordinance or resolution.

1-13-9: DEPOSIT OF PUBLIC FUNDS BY TREASURER: Except where public moneys in the custody of the Treasurer at any one time are less than $1,000, the Treasurer shall deposit, and at all times keep on deposit, in such designated depositories, all public moneys coming into his hands. In no case shall the deposit or deposits of public funds of the City in such depositories exceed at any one time in the aggregate the total of the capital and surplus or reserves and unallocated or undivided earnings, as applicable of any such depository.
1-13-10: CERTIFICATION OF DEPOSITORIES BY COUNCIL: Not less than once every six (6) months the City Council shall certify to the Treasurer the capital and surplus or reserves and unallocated or undivided earnings, as applicable, of each public depository into which public moneys have been deposited. Such certificates shall be immediately served on the Treasurer following their approval by the City Council.

1-13-11: INVESTMENT OF IDLE FUNDS: The Treasurer is hereby authorized and empowered to invest surplus or idle funds of the City in any investment permitted by Idaho Code Section 67-1210, and interest received on all such investments, unless otherwise required by law or ordinance, shall be paid into the general fund of the City.

1-13-12: COMPLIANCE WITH STATE LAW: The deposit and investment of all public moneys of the City shall conform in all respects to the Idaho Public Depository Law, as set forth in Chapter 1, Title 57, Idaho Code.
CHAPTER 14
PUBLIC RECORDS
[Repealed]
CHAPTER 15
ADMINISTRATIVE PROVISIONS

SECTION:

1-15-1: Corporate Seal Design
1-15-2: Adoption of Seal
1-15-3: Custodian of Corporate Seal
1-15-4: Official Newspaper
1-15-5: Datum Point Established
1-15-6: Official City Map
1-15-7: Public Records Custodian

1-15-1: CORPORATE SEAL DESIGN: The corporate seal of the City shall be one and eleven sixteenths inches (1-11/16") in diameter and the inner circle shall be one and one sixteenths inches (1-1/16") in diameter. The space between the two (2) circles shall bear the words "City of Idaho Falls, Bonneville County, Idaho," and the space within the inner circle shall bear the words "Corporate Seal." A facsimile of such seal is as follows:

1-15-2: ADOPTION OF SEAL: The seal described above is adopted as the corporate seal of the City of Idaho Falls, Bonneville County, Idaho.

1-15-3: CUSTODIAN OF CORPORATE SEAL: The Clerk shall be the custodian of the corporate seal of the City.

1-15-4: OFFICIAL NEWSPAPER: The Post-Register is designated as the official newspaper of the City. All writings required to be published by the City under any law of the State, or any provision of this Code, shall be published in the official newspaper.

1-15-5: DATUM POINT ESTABLISHED: For the purpose of surveys and establishing grades in streets, avenue, alleys and block intersections in the City, the following datum points shall be taken as a base or starting point:

(A) Vertical Datum Point: A brass cap disk at the corner of South Boulevard and 10th Street in the west brick wall of the City pumping plant, Well #10, set four (4) feet above the ground and set one (1) foot north of the south wall of the pumping plant (elevation 4706.141), Idaho State Geodetic Survey-1934, Line H-1, #H-3457.

(B) Horizontal Datum Point: A brass cap set in a concrete monument located S 300 35' 08" W 688.88 feet from the northeast corner of Section 18, T. 2 N., R. 38 E.B.M., said point lying along the railroad tracks 620 feet more or less southwest of the intersection of Anderson St. and Holmes Ave. Said point is stamped "IDAHO FALLS S.W. BASE 1946 of the U.S. Coast and Geodetic Survey." The Idaho State Plane Coordinates (sea level) of said point are N 671757.270 and E 537808.840.
1-15-6: **OFFICIAL CITY MAP:** A map of the City, kept current by the Director of the Community Development Services Department and drawn to a scale of one inch to five hundred feet (1" to 500'), shall, at all times, be kept on file in the Community Development Services Department, which map shall be known as the Official Map of the City. The boundaries of the City as shown on said map shall constitute the official city limits of the City. Such map shall be deemed to be a part of this Code as fully as if set forth herein. (Ord. 3003, 4-23-15)

1-15-7: **PUBLIC RECORDS CUSTODIAN:** The City Clerk is hereby designated as the custodian of City public records to receive public record requests and for other purposes of Idaho Code Title 74, Chapter 1 (Idaho Public Records Act). Additionally, the Assistant City Clerk, and any other custodian designated from time to time by Resolution by the Council, shall serve as the alternate public records custodian for contingencies. (Ord. 3157; 8-2-18; Ord. 3196, 6-28-18)
CHAPTER 16
ECONOMIC DEVELOPMENT INCENTIVE PROGRAM

SECTION:

1-16-1: Purpose
1-16-2: Eligibility Requirements and Criteria
1-16-3: Available Incentives
1-16-4: Application Procedures
1-16-5: Evaluation
1-16-6: Incentive Agreement
1-16-7: Discontinuance of Incentives

1-16-1: PURPOSE:

(A) The City is committed to the promotion of quality development in all parts of the City and to improving the quality of life for its citizens. In order to help meet these goals, the City will consider providing incentives for the retention and/or expansion of existing businesses located within the City and to encourage the establishment of new targeted businesses within the City. It is the policy of the City that such incentives will be provided in accordance with the procedures and criteria outlined in this Chapter. However, nothing in this policy shall imply or suggest, by implication or otherwise, that the City is under any obligation to provide any incentive to any applicant; and all such decisions and actions shall be at the sole discretion of the City Council. All applicants for economic development incentives will be considered on an individual basis.

(B) It is the intent of the City to offer economic development incentives on an individual basis so that the total package of incentives, if any, may be designed specifically for each project which is proposed. This approach will allow the City the flexibility necessary to satisfy the unique needs and concerns of each applicant and the needs and concerns of the City and its citizens.

1-16-2: ELIGIBILITY REQUIREMENTS AND CRITERIA:

(A) The following are the minimum requirements that must be satisfied for any application for economic development incentives to be considered:

(1) Any request for incentives shall be initiated at least sixty days prior to applying for a building permit for construction of the proposed project.

(2) The applicant must create one hundred or more new full-time equivalent positions working at a business located within the City. For the purposes of this section, "full-time employee" means an employee who is expected in normal course of employment to provide at least two thousand eighty (2,080) hours of compensated hours during any consecutive twelve month period. "Full-time equivalent" is any combination of seasonal or part-time employees whose compensated hours during a consecutive twelve month period equals two thousand eighty (2,080) hours.
The average hourly wage paid to employees shall be at least twice the federal minimum wage or $15 per hour, whichever is greater.

The firm seeking assistance shall provide medical, dental and vacation benefits to full-time employees.

The applicant shall provide new capital investment equal to or in excess of $5.0 million if the applicant will establish a new business in the City and equal to or in excess of $2.0 million if the applicant will expand a business in the City or use a building which has been vacant for at least two years. For purposes of this section, "capital improvements" means property improvements that will enhance the assessed valuation of the land and buildings on the property.

Any waivers provided under Section 1-16-3(B) shall not exceed $5,000 per full-time equivalent employee.

Any waivers provided under Section1-16-3(B) or other assistance provided by the City shall not exceed the amount of estimated City taxes to be levied on the capital improvements within the seven (7) calendar years after receipt of the Certificate of Occupation.

Any waivers provided under Section 1-16-3(B) or other assistance provided by the City shall not exceed five (5) percent of the estimated assessed valuation of the land and buildings at the time of issuance of the Certificate of Occupancy.

Nothing herein shall imply or suggest that the City is obligated to offer incentives to any person, organization, joint venture, partnership, association or corporation.

The City reserves the right to review and change the incentive program at any time, except that where an incentive agreement has been duly executed, the incentive agreement shall supersede.

AVAILABLE INCENTIVES: The City offers a variety of incentives and assistance options for qualifying businesses. The specific type of incentive or assistance will depend upon the needs of the business as well as the benefits created by the proposed business. Incentives available for qualifying businesses are:

(A) Expedited Permitting Process. The City may expedite the permitting process required for business location or expansion.

(B) Waiver of Fees. The City may waive all or part of the following fees associated with the establishment of a new businesses: road and bridge fees, storm drainage fees, land use application and plan review fees, and building permit fees. Such fees shall not be waived with respect to any fee for which the services of an outside consultant are necessary to review the application or construction documents or for any other purpose necessary to facilitate the issuance of the associated permit.
APPLICATION PROCEDURES: Any person, organization, joint venture, partnership, association, or corporation desiring that the City consider providing economic development incentives shall submit an application containing, as a minimum, the following information:

(A) The applicant's name, name of business entity, principal place of business, mailing address, telephone number, fax number, website address and contact information of an officer or employee of the applicant who is responsible for completing the application.

(B) A complete legal description of the property along with a plat showing the precise location of the project.

(C) A brief description of the proposed improvements or expansion, including but not limited to the project's estimated cost of construction, fixtures, landscaping and site improvements; the type of business operation proposed, the number and type of jobs created and the anticipated wage or salary of each job position; description of benefits available to employees; the expected source of labor to fill such jobs, the projected date of the commencement of business operations; expected duration of business location based on history of company operations.

(D) A brief description of the type of incentives requested.

(E) A current financial statement of the applicant, if currently in business, or a prospective financial statement, if a startup business.

(F) A proposed business plan for the contemplated business.

(G) Such other information as required or requested by the City.

EVALUATION:

(A) Each request for incentives will be evaluated by City staff on an individual basis taking into consideration the following factors:

(1) Revenue benefit to the City.
(2) Number and quality of jobs created.
(3) Strength of public benefit to the City.
(4) Ability of the project to spur additional economic development in the City.
(5) Impact of the proposed development on existing businesses within the City.
(6) Level of applicant's creditworthiness and financial strength.
(7) Applicant's willingness to construct public facilities and infrastructure, including but not limited to parks, pathways, library space, police station space, emergency services space, bus stops, public parking, public open space, and public recreation facilities.

(B) City staff will provide a written recommendation of full, partial or no incentive to the City Council based upon review of the application and the criteria set forth in this Chapter.
(C) The City Council may adopt the recommendation of City staff or otherwise approve economic development incentives based upon its review of the application and the criteria set forth in this Chapter.

1-16-6: INCENTIVE AGREEMENT:

(A) If the City Council determines in its sole discretion that it is in the best interest of the City to grant incentives to a particular applicant, a resolution shall be adopted approving the terms and conditions of the incentive agreement with the applicant. The incentive agreement will enumerate the types of incentives to be provided and the conditions applicable to such incentives, if any.

(B) All such incentive agreements must, at a minimum, be in writing and include:

(1) A description of each of the types of incentives to be provided.

(2) The commencement date of the incentives and the duration of the incentives.

(3) A legal description of the property indicating its location.

(4) Detailed information regarding the type, number, location and cost of planned improvements.

(5) A method by which the business receiving incentives will certify in writing to the City that the business is in compliance with the incentive agreement and provide the City with documentation to substantiate the level of value, including but not necessarily limited to, annual company financial reports, state and/or federal employment reports, and Bonneville County tax appraisal statements.

(6) A method for the City to recover all waived fees and costs which are lost as a result of the agreement if the applicant(s) fail(s) to perform its obligations under the agreement.

(7) A provision requiring the applicant to keep good and accurate financial records sufficient to demonstrate applicant's performance of the terms and conditions of the agreement and a provision allowing the City to inspect such records upon reasonable advance notice during normal business hours. Such provision shall also require the applicant to provide copies of such records to the City at the applicant's expense, upon written request of the City.

(8) Such other provisions as the City Council shall deem appropriate.

(C) The incentive agreement shall be nontransferable. Businesses entering into an incentive agreement shall promptly disclose to the City, in writing, any transfer of ownership of the
business, any sale or transfer of shares in the business which results in a change of control of the business or any bulk sale of more than seventy five percent of the assets of the business.

(D) A provision requiring repayment of all incentives in the event the application contains any misstatement or misrepresentation of material fact, together with interest at a rate of twelve percent per annum from the date each of said fees would have otherwise become due, together with a penalty in the amount of five percent of the total amount of the fees waived.

(E) A provision requiring payment by the applicant of the City's reasonable attorneys' fees and costs, in the event legal action is required to enforce any of the terms of such incentive agreement.

1-16-7: DISCONTINUANCE OF INCENTIVES: Changing economic conditions and availability of funds may cause the City Council to modify, amend, or discontinue the economic development incentive program at any time. Should the incentives program be discontinued, the City Council will honor any incentive agreement to which it committed before the discontinuance of the incentive program.
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<tr>
<td>1</td>
<td>Library Board</td>
</tr>
<tr>
<td>2</td>
<td>Planning and Zoning Commission</td>
</tr>
<tr>
<td>3</td>
<td>Board of Adjustment</td>
</tr>
<tr>
<td>4</td>
<td>Civil Service Commission <em>(RESCINDED)</em></td>
</tr>
<tr>
<td>5</td>
<td>Parks and Recreation Commission</td>
</tr>
<tr>
<td>6</td>
<td>Golf Advisory Board</td>
</tr>
<tr>
<td>7</td>
<td>Youth Advisory Council</td>
</tr>
<tr>
<td>8</td>
<td>Traffic Safety Committee</td>
</tr>
<tr>
<td>9</td>
<td>Idaho Falls Civic Center for the Performing Arts Committee</td>
</tr>
<tr>
<td>10</td>
<td>City Safety Committee</td>
</tr>
<tr>
<td>11</td>
<td>Historic Preservation Committee</td>
</tr>
<tr>
<td>12</td>
<td>Beautification Commission</td>
</tr>
<tr>
<td>13</td>
<td>Accessibility Commission</td>
</tr>
<tr>
<td>14</td>
<td>Sister City Committee</td>
</tr>
</tbody>
</table>
CHAPTER 1
LIBRARY BOARD

SECTION:

2-1-1: Appointment
2-1-2: Qualifications
2-1-3: Term
2-1-4: Quorum
2-1-5: Powers and Duties of the Trustees
2-1-6: Exclusive Control of Library Funds and Property
2-1-7: Reports of Trustees
2-1-8: Library to be Free
2-1-9: Library Employees

2-1-1: APPOINTMENT: The Mayor, with the consent of the City Council shall appoint a Library Board of five (5) library trustees for the Public Library. Members of the Board shall serve without salary but may receive their actual and necessary budgeted expenses while engaged in authorized business of the Library. (Ord. 2228, 5-8-97)

2-1-2: QUALIFICATIONS: The Library Trustee shall be a citizen of the City. A member of the City Council shall not be one (1) of the five (5) appointed trustees of the Library Board, but each year the Council shall appoint one (1) of its members to be a liaison to the Board, without voting rights. (Ord. 2228, 5-8-97)

2-1-3: TERM: Library Trustees shall hold office for five (5) years. The term of the members shall run from May 1 through April 30. The term of not more than one (1) member shall expire in any one (1) calendar year. The Board shall report all vacancies to the Mayor within five (5) working days. All appointments to fill vacancies shall be made in the same manner as appointments are originally made. Appointments to complete unexpired terms shall be for the remainder of the term only. Any trustee may be removed by the City Council by the unanimous vote of all its members. (Ord. 2228, 5-8-97)

2-1-4: QUORUM: Three (3) Trustees of the Library Board shall constitute a quorum for the purpose of conducting business. All actions by the Board of Trustees shall require an affirmative vote of at least three (3) Trustees.

2-1-5: POWERS AND DUTIES OF TRUSTEES: The Board of Trustees of the City Library shall have the following powers and duties:

(A) To establish bylaws for its own governance;

(B) To establish policies and rules of use for the governance of the library or libraries under its control; to exclude from the use of the library any and all persons who violate such rules;
(C) To establish, locate, maintain and have custody of libraries to serve the City, and to provide suitable rooms, structures, facilities, furniture, apparatus and appliances necessary for library service;

(D) With the approval of the City:

   (1) to acquire real property by purchase, gift, devise, lease or otherwise;

   (2) to own and hold real and personal property and to construct buildings for the use and purposes of the library;

   (3) to sell, exchange or otherwise dispose of real or personal property when no longer required by the library; and

   (4) to insure 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;

(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. 2228, 5-8-97)

2-1-6: EXCLUSIVE CONTROL OF LIBRARY FUNDS AND PROPERTY: The Board 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.

All funds for the library shall be in the custody of the City Treasurer and shall be used only for library purposes. The Board shall have control of library expenditures. Money shall be paid for library purposes, only upon properly authenticated vouchers of the Board of Trustees. The Board shall not make expenditures or incur indebtedness in any year in excess of the amount appropriated for library purposes. The Board may hold a separate checking account to be used to pay petty cash expenses of the library. This account shall be audited along with other library funds. (Ord. 2228, 5-8-97)

2-1-7: REPORTS OF TRUSTEES: The Board of Trustees shall annually, not later than the first day of January, file with the State Library Board a report of the operation of the library for the
fiscal year just ended. The report shall be of such form and contain such information as the State Library Board may require, but in all cases, must include a complete accounting of all financial transactions for the fiscal year being reported. The Board shall also report to the City Council and Mayor as requested or required. (Ord. 2228, 5-8-97)

2-1-8: LIBRARY TO BE FREE: The Library shall be free for the use of the inhabitants of the City, provided, however, nothing herein shall prohibit the charging of any fee for use by persons who do not reside within the City. Nothing herein shall prevent the execution of any contract with any school district, library district, county or other governmental unit whose service area or territory is located wholly or partially outside the City, for the purpose of providing library services to non-residents residing within such governmental units. Nothing herein shall prohibit the charging of any reasonable fee for: (i) interlibrary loan services or line service charges, or (ii) use of computer equipment, peripheral devices, software, audio-visual or video equipment, microfilm or microfiche devices; fax machines, photocopiers, printers, or other electronic equipment or devices not customarily used or associated with the use of printed media, or (iii) for the temporary use of any room or facility in the Library for group meetings or any other purpose other than for reading or general use of library services, equipment or facilities.

2-1-9 LIBRARY EMPLOYEES: Library employees shall be considered employees of the City and shall be subject to the Personnel Policy and other rules, regulations and ordinances adopted by the City Council.
CHAPTER 2
PLANNING AND ZONING COMMISSION

SECTION:

2-2-1: Appointment
2-2-2: Qualifications
2-2-3: Term of Office
2-2-4: Organization; Rules and Meetings
2-2-5: Duties
2-2-6: Attendance

2-2-1: APPOINTMENT: The Mayor, with the consent by the Council, shall appoint a Planning and Zoning Commission of not less than six (6) nor more than twelve (12) members.

2-2-2: QUALIFICATIONS: All members of the Commission shall reside within Bonneville County, provided no more than three (3) members may reside outside the boundaries of the City. All members shall have resided within Bonneville County for a period of two (2) consecutive years immediately preceding their appointment. No elected or appointed officer of the City shall serve as an official member of the Planning and Zoning Commission. (Ord. 3054, 26-1-16).

2-2-3: TERM OF OFFICE: Members of the Planning and Zoning Commission shall serve a term of six (6) years. The term of each member shall expire on December 31 of the sixth year following their appointment, provided the terms of no more than two (2) members shall expire in any one (1) year. Vacancies shall be filled by the Mayor and Council for the unexpired term of the incumbent. Members may be removed by a majority vote of the full Council. Members shall be selected without respect to political affiliation and shall serve without compensation.

2-2-4: ORGANIZATION; RULES AND MEETINGS: The Commission shall elect its own chairperson and create and fill such other offices as necessary. One (1) regular meeting shall be held each month for not less than nine (9) months in each year. A majority of the members of the Commission shall constitute a quorum at any meeting. All meetings and records of the Commission shall be open to the public. Written rules consistent with this Chapter and the laws of the State for the transaction of business of the Commission shall be adopted, and a written record of the resolutions, findings and determinations shall be kept.

2-2-5: DUTIES: The Planning and Zoning Commission shall examine all proposals, applications and petitions and shall make recommendations to the City Council concerning the zoning of properties within the City and properties to be annexed thereto. The Planning and Zoning Commission shall recommend to the Council changes regarding the City's comprehensive plan. The commission may suggest changes in the Zoning Ordinance and shall study and make recommendations for the laying out, widening, extending and locating of streets, roads and highways in the City, the future development, growth and beautification of the City's streets, parks, grounds and lands. The Planning and Zoning Commission shall have all powers and duties assigned to it by the Zoning Ordinance. It shall act in an advisory capacity to the Board of Adjustment when requested by the Board. All maps, plats and replats of land which require the approval of the Council shall be submitted first to the Planning and Zoning Commission for its recommendation. The Planning and Zoning Commission also shall perform other duties required under state law or as directed by the Council.
2-2-6: ATTENDANCE: A voting Commission member may be removed from the Commission following two (2) consecutive absences which are not excused by the Chair, or where a voting member is absent from more than two (2) Commission meetings in any calendar year. Following either of these occurrences, the Chair may request that the Mayor remove such Commission member. (Ord. 3054, 26-1-16).
CHAPTER 3
BOARD OF ADJUSTMENT

SECTION:

2-3-1: Appointment
2-3-2: Qualifications
2-3-3: Term
2-3-4: Vacancies
2-3-5: Organization
2-3-6: Rules and Regulations
2-3-7: Duties

2-3-1: APPOINTMENT: The Mayor, with the consent of the City Council, shall appoint a Board of Adjustment of nine (9) members.

2-3-2: QUALIFICATIONS: Members of the Board of Adjustment shall be residents and electors of the City. The Mayor, members of the City Council and any appointed officer of the City shall not serve as a member of the Board. One member of the Board shall be a member of the Planning and Zoning Commission.

2-3-3: TERM: Members of the Board of Adjustment shall be appointed for a term of five (5) years. Terms shall expire on December 31 of the fifth year following their appointment. Not more than two (2) members' terms shall expire in any one (1) year.

2-3-4: VACANCIES: The Mayor, with consent of the City Council, shall appoint a qualified person to fill the unexpired term of any member of the Board in the event of a vacancy.

2-3-5: ORGANIZATION: The Board shall elect its own chairperson and may appoint other officers from among its members. The Zoning Official shall serve as a non-voting ex officio member of the Board.

2-3-6: RULES AND REGULATIONS: The Board shall adopt rules and regulations necessary to carry into effect the provisions of this Chapter. Meetings shall be held when necessary. The Board shall keep minutes of its proceedings, showing the vote of each member on every question. The meetings, minutes and records of the Board shall be open to the public.

2-3-7: DUTIES: The Board of Adjustment shall have such duties and authority as set forth in the Zoning Ordinance and shall perform all other duties as required by state law or as directed by the City Council.
CHAPTER 4

RESCINDED (Ord. 3115, 27-4-17).
CHAPTER 5
PARKS AND RECREATION COMMISSION

SECTION:

2-5-1: Appointment
2-5-2: Qualifications
2-5-3: Terms
2-5-4: Vacancies
2-5-5: Compensation
2-5-6: Organization
2-5-7: Rules and Regulations
2-5-8: Duties
2-5-9: Attendance

2-5-1: APPOINTMENT: The Mayor, with the consent of the City Council, shall appoint a Parks and Recreation Commission of twelve (12) members.

2-5-2: QUALIFICATIONS: The Commission shall be comprised of one (1) member of each Board of School Trustees that functions within the City or a designee of the Board of School Trustees, one (1) member of the Board of County Commissioners, Bonneville County, or a designee of the Board of County Commissioners, and nine (9) at-large members not affiliated with either the Board of School Trustees or the Board of County Commissioners.

2-5-3: TERMS: Commission members appointed from the Board of School Trustees and Board of County Commissioners shall be permanent members. At-large members shall serve terms of three (3) years. The terms of no more than three (3) at-large members shall expire in any one year. Terms of at large members shall expire on December 31 of the third year following their appointment.

2-5-4: VACANCIES: The Mayor, with the consent of the City Council, shall appoint a qualified person to fill the unexpired term of any at-large Commission member in the event of a vacancy.

2-5-5: COMPENSATION: Commission members shall serve without compensation, except that expenses for equipment and supplies necessary for the Commission to transact its business shall be allowed by the Council.

2-5-6: ORGANIZATION: The Commission annually shall elect a Chair from its membership, who shall serve until replaced or re-elected pursuant to this Subsection. (Ord. 3026, 9-24-15)

2-5-7: RULES AND REGULATIONS: The Commission shall adopt rules and regulations consistent with and as necessary to carry out the provisions of this Chapter. (Ord. 3026, 9-24-15)

2-5-8: DUTIES: The Commission shall work with the Director of Parks and Recreation toward development of a comprehensive, balanced plan of City-wide recreation consistent with
available funds. The Committee shall study the physical condition, maintenance, operation and use of public playgrounds, parks and recreational facilities of the City and shall make to the Director of Parks and Recreation recommendations concerning their improvement and efficient use.

2-5-9: ATTENDANCE: A voting Commission member may be removed from the Commission following two (2) consecutive absences which are not excused by the Chair, or where a voting member is absent from more than two (2) Commission meetings in any calendar year. Following either of these occurrences, the Chair may request that the Mayor remove such Commission member. (Ord. 3026, 9-24-15)
CHAPTER 6
GOLF ADVISORY BOARD

SECTION:

2-6-1: Appointment of Board
2-6-2: Compensation of Board
2-6-3: Terms
2-6-4: Vacancies
2-6-5: Compensation
2-6-6: Organization
2-6-7: Rules and Regulations
2-6-8: Duties

2-6-1: APPOINTMENT OF BOARD: The Golf Advisory Board shall consist of thirteen (13) voting members and ex-officio members as set forth below. (Ord. 2139, 5-19-94)

2-6-2: COMPOSITION OF BOARD: Ex-officio members of the Board shall consist of the Director of Parks and Recreation and the golf professional(s) at the Pinecrest, Sandcreek, Sage Lakes, and other golf courses owned or operated by the City. Voting members of the Board shall consist of the following, or their designee:

(A) The president of the Idaho Falls Men's Golf Association.

(B) The president of the Idaho Falls Women's Golf Association.

(C) The president of the Senior Golf Association.

(D) The president of the Junior Golf Association.

(E) The president of the Working Women's League.

(F) A member of the Idaho Falls Parks and Recreation Commission, as appointed by the Mayor.

(G) Six (6) at-large members appointed by the Mayor without regard to their affiliation with any group or organization.

(H) A member of the City Council, as appointed by the Mayor.

All appointments to the Board shall be confirmed by the Council. (Ord. 2139, 5-19-94; Ord. 3008, 5-25-2015)

2-6-3: TERMS: All ex-officio members shall serve as long as they continue to serve in the offices or capacities designated in this Chapter. All at-large members shall serve terms of three (3) years, except that the terms of the initial Board members may be less than three years as necessary to
provide for staggered terms of office. The terms of no more than two (2) at-large members shall expire in any calendar year. Terms of at-large members shall expire on December 31 of the third year of their appointment. All other appointed, voting Board members shall serve indefinite terms at the will and pleasure of the Mayor and Council. (Ord. 2139, 5-19-94; Ord. 3008, 5-25-2015)

2-6-4: VACANCIES: The Mayor, with the consent of the Council, shall appoint a qualified person to fill the unexpired term of any Board member in the event of a vacancy or in the event any member ceases to be qualified. (Ord. 2139, 5-19-94; Ord. 3008, 5-25-2015)

2-6-5: COMPENSATION: Board members shall serve without compensation. (Ord. 2139, 5-19-94)

2-6-6: ORGANIZATION: During the last meeting of each calendar year, the Board shall elect, by a majority vote, a person to act as Chair from its membership, who shall serve until replaced or re-elected pursuant to this Subsection. (Ord. 2139, 5-19-94; Ord. 3008, 5-25-2015)

2-6-7: RULES AND REGULATIONS: The Board shall adopt rules and regulations consistent with and as necessary to carry out the provisions of this Chapter. (Ord. 2139, 5-19-94; Ord. 3008, 5-25-2015)

2-6-8: DUTIES: The Golf Advisory Board shall make recommendations to the Mayor and Council concerning the operation, maintenance and conduct of the City golf courses. It also shall study existing City golf facilities and make recommendations concerning the advisability and feasibility of acquiring additional golf courses or facilities or of expanding or renovating existing facilities. (Ord. 2139, 5-19-94)

2-6-9: ATTENDANCE: A voting Board member may be removed from the Board following two (2) consecutive absences which are not excused by the Chair, or where the voting Board member is absent from more than two (2) Board meetings in any calendar year. Following either of these occurrences, the Chair may request that the Mayor remove such Board member. (Ord. 3008, 5-25-2015)
CHAPTER 7
YOUTH ADVISORY COUNCIL

SECTION:

2-7-1: Appointment
2-7-2: Qualifications
2-7-3: Terms
2-7-4: Vacancies
2-7-5: Organization
2-7-6: Rules and Regulations
2-7-7: Compensation
2-7-8: Meetings
2-7-9: Duties

2-7-1: APPOINTMENT: The Mayor, with the consent of the City Council, shall appoint a Youth Advisory Council of not less than five (5) nor more than fifteen (15) members.

2-7-2: QUALIFICATIONS: Persons eligible for appointment to the Advisory Council shall be citizens of the United States and residents of the City for at least three (3) years immediately prior to their appointment. Members shall be selected without regard to political affiliation, race, nationality, gender or religion.

2-7-3: TERMS: Members of the Advisory Council shall serve terms of three (3) years. The terms of no more than one-third (1/3) of the members shall expire in any calendar year. Terms of members shall expire on December 31 of the third year following their appointment.

2-7-4: VACANCIES: The Mayor, with the consent of the City Council, shall appoint a qualified person to fill the unexpired term of any Advisory Council member in the event of a vacancy.

2-7-5: ORGANIZATION; ACCOMMODATIONS: The Advisory Council shall elect from its membership a chairperson, vice chairperson and a secretary and such other officers as necessary. The chairperson shall preside at all meetings. If the chairperson is absent or unable to act at any meeting, the vice chairperson shall preside. The secretary shall keep a record of all meetings and shall see that a copy of all minutes is promptly provided to the City Council. The City Council shall provide suitable accommodations and equipment to enable the Advisory Council to carry out its business.

2-7-6: RULES AND REGULATIONS: The Advisory Council shall adopt rules and regulations as necessary to carry out the provisions of this Chapter.

2-7-7: COMPENSATION: Advisory Council members shall serve without compensation.

2-7-8: MEETINGS: The Advisory Council shall hold regular meetings once a month on a date fixed by its rules and regulations and may hold special meetings at the call of the Chairperson.
DUTIES: The Advisory Council shall act as an advisory agency to the City Council and other public agencies in the prevention and control of juvenile delinquency. It shall exercise the following functions:

(A) Initiate and develop fact-finding studies and research programs concerned with the nature, causes, and means of prevention of juvenile delinquency, and the treatment of juvenile delinquents;

(B) Make known to public agencies and organizations concerned with and responsible for the prevention and control of juvenile delinquency, the results of its studies and recommendations based on its studies;

(C) Advise and assist such agencies in the study, initiation and development of new techniques, services, facilities, and programs to prevent and reduce juvenile delinquency;

(D) Publicize information about the nature, causes and means of preventing and controlling juvenile delinquency, by press releases, radio, television and any other media;

(E) Study and recommend changes and additions to laws concerning the control of juvenile delinquency.
CHAPTER 8
TRAFFIC SAFETY COMMITTEE

SECTION:

2-8-1: Appointment
2-8-2: Term
2-8-3: Vacancies
2-8-4: Purpose and Duties
2-8-5: Use of Recommendations as Evidence

2-8-1: APPOINTMENT: A Traffic Safety Advisory Committee (“Committee”) shall be established and shall be comprised of the following seven (7) person voting membership:

A. Voting members

1. City employee members
   a. One (1) Idaho Falls Police Department employee, to serve as Committee chair
   b. One (1) City Engineer
   c. One (1) Public Works Department employee
   d. One (1) Idaho Falls Power employee

2. Non-City employee members
   a. Two (2) members, one (1) each selected from any two (2) of the following member organizations:

   Bonneville Metropolitan Planning Organization (BMPO)
   Idaho Falls School District 91
   Idaho Transportation Department (ITD)
   Idaho National Laboratories (INL) – Fleet Safety Division
   Targhee Regional Public Transportation Authority (TRPTA)
   b. One (1) City resident who is not a City employee or a representative of any of the member organizations listed in this Chapter.

B. Non-voting ex-officio member organizations

The following organizations shall each have a continuing appointment to the Committee as a non-voting ex-officio member:

Bonneville Metropolitan Planning Organization (BMPO)
Idaho Falls School District 91
Idaho Transportation Department (ITD)
Idaho National Laboratories (INL) – Fleet Safety Division
Targhee Regional Public Transportation Authority (TRPTA)

If a member organization has an appointed position on the Committee (as a voting member), such member may vote. Upon expiration of the voting term, the member organization shall return to its non-voting ex-officio status.

C. An ex-officio, non-voting member of this Committee shall not be considered in determining the number required for a quorum or whether a quorum is present. (Ord. 2200, 4-11-96; Ord. 3069, 4-12-2016)

2-8-2: TERM: The Committee members who are City employees shall serve as assigned by the City Public Works Director, City Police Chief, and the Director of Idaho Falls Power, respectively and are not limited to a two (2) years term. The Committee members who are not City employees shall be appointed by Mayor, with the consent of the Council and shall serve terms of two (2) years. The terms of such voting non-City employee members shall be staggered so that no more than two (2) such members’ terms shall expire in any one (1) year. Terms of voting non-City employee members shall expire on the last day of the second year following their appointment. (Ord. 3069, 4-12-2016)

2-8-3: VACANCIES: The Mayor, with the consent of the Council, shall appoint a qualified person to fulfill any unexpired term of any Committee member who is not a City employee, in the event of a vacancy. A non-City employee Committee member may be removed from the Committee following three (3) consecutive absences that are not excused by the Chair. Following the third consecutive unexcused absence, the Chair may request the Mayor for removal of such Committee member. In addition, the Mayor may revoke a Committee appointment of a non-City employee member at any time and for any reason deemed sufficient, with the advice and subject to the approval of the Council. (Ord. 3069, 4-12-2016)

2-8-4: PURPOSE AND DUTIES: The Committee shall study traffic throughout the City to recommend ways to reduce or eliminate traffic hazards and to promote traffic safety by education, traffic controls, laws, regulations, and other means. It shall make recommendations to the Director of Public Works concerning traffic safety and may be called upon by the Council to give recommendations regarding implementation or installation of traffic control devices and other traffic safety enhancements. (Ord. 2200, 4-11-96; Ord. 3069, 4-12-2016)

2-8-5: USE OF RECOMMENDATIONS AS EVIDENCE: In order to encourage the prompt identification and elimination of traffic hazards without fear of liability, all studies and recommendations of the Traffic Safety Committee, and any reference thereto in any minutes of any meeting of the Council, shall be privileged from use or introduction into evidence at any trial or proceeding involving any accident, injury, or loss. All members of the Committee shall also be privileged from testifying about such information at any trial or proceeding. (Ord. 3069, 4-12-2016)
CHAPTER 9
IDaho Falls Civic Center for the Performing Arts Committee

SECTION:

2-9-1: Appointment
2-9-2: Term
2-9-3: Vacancies
2-9-4: Duties
2-9-5: Funding and Donations

2-9-1: APPOINTMENT: The Mayor, with the consent of the Council, shall appoint an Idaho Falls Civic Center for the Performing Arts Committee of not less than three (3) nor more than five (5) voting members. The Committee shall include, as non-voting ex officio members, at least one (1) member of the Council of the City General Services Administration and a representative of the current manager of the Idaho Falls Civic Center for the Performing Arts. A non-voting member of the Committee shall not be considered in determining the number required for a quorum or whether quorum is present.
(Ord. 3064, 4-14-2016; Ord. 3151, 12-21-2017)

2-9-2: TERM: Members of the Committee shall serve a term of two (2) years. The terms of members shall expire on December 31 of the second year after their appointment.
(Ord. 3064, 4-14-2016; Ord. 3151, 12-21-2017)

2-9-3 VACANCIES: The Mayor, with the consent of the Council, shall appoint a qualified person to fill the unexpired term of a Committee member in the event of a vacancy.
(Ord. 3064, 4-14-2016; Ord. 3151, 12-21-2017)

2-9-4 DUTIES: The Committee shall study the function and operation of the Idaho Falls Civic Center for the Performing Arts, shall assist in the development of a long-term financial and facility plan to improve and sustain the viability of the Idaho Falls Civic Center for the Performing Arts, and shall present recommendations, consistent with available City funds, to the Director of Municipal Services.
(Ord. 3064, 4-14-2016; Ord. 3151, 12-21-2017)

2-9-5 FUNDING AND DONATIONS: The Committee is authorized to seek outside funding and in-kind donations for its projects, including programs and capital improvements, as may be approved by the Council and in accordance to City budget procedures.
(Ord. 3197, 7-12-18)
CHAPTER 10
CITY SAFETY COMMITTEE

SECTION:

2-10-1 Appointment  
2-10-2 Qualifications  
2-10-3 Compensation  
2-10-4 Organization  
2-10-5 Duties  
2-10-6 Use of Recommendations

2-10-1: APPOINTMENT: The Mayor, with the consent of the City Council, shall appoint a City Safety Committee of five (5) members, who shall serve at the pleasure of the Mayor and Council. Three members of the Committee shall constitute a quorum for the purpose of transacting business of the Committee. All actions of the committee shall be taken only upon an affirmative vote of at least three members of the Committee.

2-10-2: QUALIFICATIONS: At least three (3) members of the Committee shall be employees of the City, not more than two (2) of whom shall be from the same department or division.

2-10-3: COMPENSATION: Committee members shall serve without compensation.

2-10-4: ORGANIZATION: The Committee shall elect from its membership a chairperson and secretary. The secretary shall keep a written record of all meetings of the Committee and all recommendations the Committee makes to the City.

2-10-5: DUTIES: The Committee shall meet as often as necessary to perform the duties set forth below or as necessary to respond to requests from the Mayor or Council. The Committee shall make recommendations to the Council regarding the safety and protection of City employees, equipment and property. It shall conduct a continuing program of inspection and study to prevent accidents, fire and health hazards upon public property, and shall coordinate its work with the Directors and heads of relevant City departments and divisions. The Committee shall furnish the Mayor and Council a report of each Committee meeting. The report shall include recommendations on policy, expenditures, and program progress. The Committee also shall recommend training methods, types of safety equipment, investigate all accidents of an unusual or hazardous nature and shall receive, examine, and disseminate accident reports and statistics. (Ord. No. 3003, 04-23-15)

2-10-6: USE OF RECOMMENDATIONS: In order to encourage prompt identification and elimination of all safety hazards upon public property without fear of liability or adverse use of recommendations or studies prepared by the Committee, all studies, reports and recommendations of the Committee, and any reference thereto in any minutes of any meeting or proceeding of the Council, shall be privileged from use or introduction into evidence at any trial or proceeding involving any accident, injury or loss on account of any hazard identified in such reconsideration, study or report. Notwithstanding the foregoing, all such documents or information shall be open to the public. All members of the Committee shall be privileged from testifying about such information at any trial or proceeding.
CHAPTER 11
HISTORIC PRESERVATION COMMISSION

SECTION:

2-11-1: Purpose
2-11-2: Definitions
2-11-3: Historic Preservation Commission
2-11-4: Organization, Officers, Rules, Meetings
2-11-5: Powers, Duties and Responsibilities

2-11-1: PURPOSE: The purpose of this Chapter is to promote the educational, cultural, economic and general welfare of the residents of the City of Idaho Falls through the identification, evaluation, designation and protection of those buildings, sites, areas, structures and objects which reflect the City’s, the State’s and the Nation’s historic, architectural, archaeological and cultural heritage. (Ord. 2174, 5-30-95)

2-11-2: DEFINITIONS: The following words and phrases, when used in this Chapter, shall have, unless the context clearly indicates otherwise, the following meanings:

COMMISSION: The Historic Preservation Commission of the City of Idaho Falls, as established under this Chapter.

HISTORIC PRESERVATION: The research, documentation, protection, restoration and rehabilitation of historic property.

HISTORIC PROPERTY: Any building, structure, object, district, area or site that is significant in the history, architecture, archaeology or culture of this community, the state, or the nation. (Ord. 2174, 5-30-95)

2-11-3: HISTORIC PRESERVATION COMMISSION:

(A) A Historic Preservation Commission is hereby created consisting of nine (9) members who shall be appointed by the Mayor and confirmed by the Council.

(B) All members of the Commission shall have a demonstrated interest, competence or knowledge in history or historic preservation. Four (4) members of the Commission shall have professional training or experience in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation-related disciplines.

(C) Initial appointments to the Commission shall be made as follows: One (1) one-year term; three (3) two-year terms; three (3) three-year terms. All subsequent appointments shall be made for terms of three (3) years each. Commission members may be reappointed to serve additional terms. Vacancies shall be filled in the same manner as original appointments and the appointee shall serve for the remainder of the unexpired term of his or her predecessor.
(D) The members of the Commission may be reimbursed by the City for reasonable and necessary expenses incurred in connection with their duties. (Ord. 2174, 5-30-95; Ord. 2746, 3-27-08)

2-11-4: ORGANIZATION, OFFICERS, RULES, MEETINGS:

(A) The Commission may make all rules necessary for the execution of its duties as set forth in this Chapter. Rules of procedure and bylaws adopted by the Commission shall be kept at the office of the City Clerk and shall be available for public inspection during normal working hours.

(B) The Commission shall elect officers from among its members. The Chairman shall preside at meetings of the Commission. The Vice Chairman shall, in the temporary absence of the Chairman, perform the duties of the Chairman.

(C) All meetings of the Commission shall be open to the public and shall follow the requirements of the Idaho Open Meeting law. The Commission shall keep minutes and other appropriate written records of its resolutions, proceedings and actions.

(D) The Commission may, with the approval of the Council, employ or contract with other persons or entities for the services of technical or professional experts or other consulting services it deems necessary to carry on the functions of the Commission. (Ord. 2174, 5-30-95)

2-11-5: POWERS, DUTIES AND RESPONSIBILITIES:

(A) The Commission shall have the following powers, duties and responsibilities:

1. Advise and consult with the Mayor and Council regarding the identification, evaluation, designation and protection of historic buildings, site areas and objects.
2. Conduct a survey of local historical properties;
3. Recommend the acquisition of fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequests, or donation;
4. Recommend methods and procedures necessary to preserve, restore, maintain and operate historic properties under the ownership or control of the City;
5. Recommend the lease, sale, other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
6. Cooperate with the federal, state and local governments in promoting historic preservation;
(7) Make recommendations in the planning processes undertaken by the County, the City, the State or the federal government and agencies thereof;

(8) Recommend the adoption of ordinances that promote or regulate historic preservation within the City, in accordance with the powers set forth in Idaho Code Section 67-4612;

(9) Promote and conduct educational and interpretive programs regarding historic preservation and historic properties in the City;

(10) Review nominations of properties to the National Register of Historic Places for properties within the City’s jurisdiction.

(B) Nothing herein shall convey or otherwise delegate authority to the Commission to incur any obligation or indebtedness of the City, without the express authorization of the City Council. (Ord. 2174, 5-30-95)
CHAPTER 12
BEAUTIFICATION COMMISSION

SECTION:

2-12-1 Purpose
2-12-2 Definitions
2-12-3 Beautification Commission
2-12-4 Organization, Officers, Rules, Meetings
2-12-5 Powers, Duties and Responsibilities

2-12-1: PURPOSE: The Beautification Commission of the City of Idaho Falls will promote and recognize private and public beautification efforts within the City.

2-12-2: DEFINITIONS: The following words and phrases, when used in this Chapter, shall have, unless the context clearly indicates otherwise, the following meanings:

COMMISSION: The Beautification Commission of the City of Idaho Falls as established under this Chapter.

NEIGHBORHOOD: Generally popularized names of residential areas within the City or specifically designated names of residential areas as entitled on subdivision documents.

2-12-3: BEAUTIFICATION COMMISSION:

   (A) A Beautification Commission is hereby created consisting of ten (10) members who shall be appointed by the Mayor and confirmed by the Council.

   (B) All members of the Commission shall have a demonstrated interest in the beautification of Idaho Falls. Five (5) members of the Commission shall have professional training or experience in the disciplines of horticulture, landscape architecture, architecture, community development, urban forestry, parks planning and administration, economic development or related fields.

   (C) All members of the Commission shall be residents of the City of Idaho Falls.

   (D) Initial appointments to the Commission shall be made as follows: three (3) one-year terms, three (3) two-year terms; four (4) three-year terms. All subsequent appointments shall be made for terms of three (3) years each. Commission members may be reappointed to serve additional terms. Vacancies shall be filed in the same manner as original appointments and the appointee shall serve for the remainder of the unexpired term of his or her predecessor.

   (E) Commission members shall serve without compensation. (Ord. 2875, 6-9-11)

2-12-4: ORGANIZATION, OFFICERS, RULES, MEETINGS:

ORGANIZATION, OFFICERS, RULES, MEETINGS:
(A) The Commission may make all rules necessary for the execution of its duties as set forth in this Chapter. Rules of procedure and bylaws adopted by the Commission shall be kept at the office of the City Clerk and shall be available for public inspection during normal working hours.

(B) The Commission shall elect officers from among its members. The Chairman shall preside at meetings of the Commission. The Vice Chairman shall, in the temporary absence of the Chairman, perform the duties of the Chairman.

(C) All meetings of the Commission shall be open to the public and shall follow the requirements of the Idaho Open Meeting Law. The Commission shall keep minutes and other appropriate written records of its resolutions, proceedings and actions. The Community Development Services Department shall be responsible for maintaining the records of the Commission, including photographs and other documents pertaining to each year's awards. A pictorial display of the annual recipients will be shown at a city building for one month after the recipients are officially recognized. (Ord. No. 3003, 04-13-15)

2-12-5: POWERS, DUTIES, AND RESPONSIBILITIES:

(A) The Commission shall have the following powers, duties, and responsibilities:

(1) Encourage private citizens, businesses, and other entities to beautify buildings and landscapes of residential, commercial, or public properties within the City.

(2) Stimulate public interest in overall community appearance.

(3) Establish a process and criteria for city beautification awards, select recipients of annual awards, and officially and publicly recognize at a meeting of the City Council those businesses, individuals, and entities that have made concerted and sustained efforts to enhance and beautify the appearance of buildings or landscapes in the City.

(4) Using the process and criteria established above, nominate, solicit nominations and present annual awards for city beautification.

(5) Advise, when requested, City commissions and departments, community non-profit organizations and other entities interested in community beautification and increased awareness of good landscaping practices, community-wide clean-up efforts and individual and group efforts for beautification.

(B) Nothing herein shall convey or otherwise delegate authority to the Commission to incur any obligation or indebtedness of the City without express authorization of the City Council. (Ord. 2750, 5-8-08; Ord. 2875, 6-9-11)
CHAPTER 13
ACCESSIBILITY COMMISSION

SECTION:

2-13-1: Purpose
2-13-2: Powers, Duties and Responsibilities
2-13-3: Appointment
2-13-4: Terms
2-13-5: Vacancies
2-13-6: Attendance
2-13-7: Organization
2-13-8: Meetings
2-13-9: Report to Council

2-13-1: PURPOSE: The purpose of the ADA Advisory Board (“Board”) is to assist the City’s ADA Coordinator, the Mayor, and Council in identifying, evaluating, designating, prioritizing, and modifying accessibility within the City and to suggest improvements to City facilities, properties, and programs. (Ord. 2784, 10-23-08; Ord. 3143, 11-21-17)

2-13-2: POWERS, DUTIES, AND RESPONSIBILITIES. The Board shall have the following powers, duties, and responsibilities:

A. Advise the City ADA coordinator regarding the identification, evaluation, designation, priority, and modification of accessibility to City facilities, properties, and programs; and

B. Assist the City ADA coordinator in conducting and maintaining an accessibility survey of all City facilities, properties, and programs; and

C. Assist the City ADA coordinator in determining priorities for recommended modifications to City facilities, properties, and programs; and

D. In coordination with the City’s ADA coordinator, promote and conduct educational programs for City staff regarding ADA accessibility (Ord. 2784, 10-23-08; Ord. 3143, 11-21-17)

2-13-3: APPOINTMENT. The Mayor, with consent of the Council, shall appoint five (5) members of the Board who shall be a City resident with a disability or with a demonstrated interest, competence, or knowledge of the needs and the concerns of the disability community. Members shall be selected without regard to political affiliation, race, color, national origin, gender, family status, sex, handicapping condition, sexual orientation, gender identity/expression or religion and shall live within the City’s limits. Board members shall serve without compensation. The Mayor may appoint, with the consent of the Council, additional persons with expertise and experience to be non-voting ex-officio members of the Board. (Ord. 2784, 10-23-08; Ord. 3143, 11-21-17)

2-13-4: TERMS. A Board member shall be appointed to serve a term of three (3) years. Terms of no more than two (2) memberships shall expire in any calendar year. Members may be reappointed. (Ord. 2784, 10-23-08; Ord. 3143, 11-21-17)
2-13-5: VACANCIES. The Mayor, with the consent of the Council, shall appoint a qualified member to fill any unexpired term of a Board member in the event of a vacancy. (Ord. 2784, 10-23-08; Ord. 3003, 04-23-15; Ord. 3143, 11-21-17)

2-13-6: ATTENDANCE. A voting Board member may be removed by the Board following two (2) consecutive absences which are not excused by the Chair, or where the Board members absent for more than two (2) consecutive Board meetings in any calendar year. Following either of these occurrences, the Chair may request that the Mayor remove such Board member. (Ord. 2784, 10-23-08; Ord. 3143, 11-21-17)

2-13-7: ORGANIZATION. The Board shall annually elect, by majority vote, a person to act as Chair and Vice-Chair from its membership. The Chair and Vice-Chair shall serve until replaced or re-elected. (Ord. 3143, 11-21-17)

2-13-8: MEETINGS. The Board shall meet at least one (1) time annually and as often as deemed necessary by the City ADA Coordinator. All meetings of the Board shall be open to the public and shall follow the requirements of the Idaho Open Meetings Law. The ADA Coordinator shall keep minutes and other appropriate records pursuant to the Idaho Code. (Ord. 3143, 11-21-17)

2-13-9: REPORT TO COUNCIL. The Board shall provide an annual report to the Council in January of each year regarding activities and accomplishments for the preceding City fiscal year and shall include any recommendations for the subject of the fiscal year. The Mayor or the Council may also require special reports as they deem necessary. (Ord. 3143, 11-21-17)
CHAPTER 14
SISTER CITY COMMITTEE

SECTION:
2-14-1: Purpose and Duties
2-14-2: Appointment of Committee
2-14-3: Composition of the Committee
2-14-4: Terms
2-14-5: Attendance
2-14-6: Vacancies
2-14-7: Organization, Rules, Meetings
2-14-8: Funding and Donations

2-14-1 PURPOSE AND DUTIES: The Sister City Committee (hereinafter “Committee”) is established to improve, promote, and sustain cultural understanding and to facilitate personal and business ties, friendships, and fellowships between Tokai-mura, Japan, and the City. The Committee may make recommendations and shall report to the Mayor and Council concerning the purposes of the Committee, from time to time, as requested by the Mayor or the Council.

2-14-2 APPOINTMENT OF COMMITTEE: Committee members shall serve without compensation. The Committee shall consist of five (5) voting members and four (4) ex-officio members, as set forth below.

2-14-3 COMPOSITION OF THE COMMITTEE: Voting members of the Committee shall consist of one (1) adult member of the Idaho Falls Sister Cities – Youth organization, and one (1) member of the Idaho Falls Sisters Cities – Adult organization, and three (3) at-large City residents, appointed by the Mayor, who are not members of either Idaho Falls Sister Cities organization. Non-voting ex-officio members of the Committee shall consist of one (1) elected City official, one (1) member of the Idaho Falls Sister Cities Youth Group (i.e. a member between the ages of 12 and 18 years of age), one (1) member of the Idaho Falls Chamber of Commerce, and one (1) representative from the Idaho Falls Parks and Recreation Department, as appointed by the Mayor. All appointments to the Committee shall be confirmed by the Council.

2-14-4 TERMS: All at-large members shall serve terms of three (3) years, except that the terms of the initial Committee members may be less than three (3) years as necessary to provide for staggered terms of office. The terms of no more than two (2) at-large members shall expire at any calendar year. Terms of at-large members shall expire December 31 of the third year of their appointment. All non-voting ex-officio members of the Committee shall serve as long as they continue to serve in the offices or capacities designated in this Chapter.

2-14-5 ATTENDANCE: A voting Committee member may be removed from the Committee following two (2) consecutive absences which are not excused by the Chair, or where the voting Committee member is absent from more than two (2) Committee meetings in any calendar year. Following either of these occurrences, the Chair may request that the Mayor, at the Mayor’s sole discretion, remove such Committee member.
2-14-6       VACANCIES: The Mayor, with the consent of the Council, shall appoint a qualified person to fill the unexpired term of any Committee member in the event of a vacancy or in the event any member ceases to be qualified.

2-14-7       ORGANIZATION, RULES, MEETINGS: During the first meeting of each calendar year, the Committee shall elect, by a majority vote, a person to act as Chair from its membership, who shall serve until replaced or re-elected pursuant to this Chapter. All meetings of the Committee shall be open to the public and shall follow the requirements of the Idaho Open Meeting Law. The Committee shall keep minutes and other appropriate written records of its resolutions, proceedings, and actions. The Clerk shall be responsible for maintaining the records of the Committee. Any bylaws, membership practices, dues and subscriptions, and publications are subject to the review and prior approval of the City.

2-14-8       FUNDING AND DONATIONS: The Committee is authorized to seek outside funding and in-kind donations for its projects (including exchanges), as may be approved by the Council and in accordance to City budget procedures.
### TITLE 3
#### OPERATIONAL DEPARTMENTS

<table>
<thead>
<tr>
<th>CHAPTER:</th>
<th>SUBJECT:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Police Department</td>
</tr>
<tr>
<td>2</td>
<td>Fire Department</td>
</tr>
<tr>
<td>3</td>
<td>Municipal Services Department</td>
</tr>
<tr>
<td>4</td>
<td>Idaho Falls Power</td>
</tr>
<tr>
<td>5</td>
<td>Public Works Department</td>
</tr>
<tr>
<td>6</td>
<td>Parks and Recreation Department</td>
</tr>
<tr>
<td>7</td>
<td>Airport Department</td>
</tr>
<tr>
<td>8</td>
<td>Community Development Services Department</td>
</tr>
<tr>
<td>9</td>
<td>Human Resources Department</td>
</tr>
<tr>
<td>10</td>
<td>City Attorney Department</td>
</tr>
</tbody>
</table>
CHAPTER 1
POLICE DEPARTMENT

SECTION:

3-1-1: Creation of Police Department
3-1-2: Offices
3-1-3: Appointment of Officers and Members
3-1-4: Chief of Police
3-1-5: Police Officers
3-1-6: Personnel to Wear Uniforms
3-1-7: Reports
3-1-8: Conduct of Police Officers
3-1-9: Compensation
3-1-10: Removal of Police Officers
3-1-11: Arrests
3-1-12: Duties of Chief Regarding Unlicensed Businesses
3-1-13: Oath of Officers
3-1-14: Outside Employment
3-1-15: Appointment of Special Police Officers
3-1-16: Unclaimed Personal Property
3-1-17: Record of Unclaimed Property
3-1-18: Advertisement and Sale of Unclaimed Property
3-1-19: Reimbursement to Owner
3-1-20: Extraterritorial Powers

3-1-1: CREATION OF POLICE DEPARTMENT: The Police Department is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-1-2: OFFICES: The following offices are created within the Police Department: Police Chief, Assistant Chief, Captain, Lieutenant, Sergeant, Patrolman and other such offices as the Mayor and Council deem necessary to preserve the peace, enforce the laws and safeguard the property and inhabitants of the City. Notwithstanding the foregoing, the Mayor and Council may allow any office to remain vacant for any period of time. (Ord. 3003, 04-23-15)

3-1-3: APPOINTMENT OF OFFICERS AND MEMBERS: The Mayor, subject to confirmation by at least four (4) members of the Council, shall appoint the Chief of Police. (Ord. 3003, 04-23-15; Ord. 3171, 04-12-18)

3-1-4: CHIEF OF POLICE: The Chief of Police shall be the chief administrative officer of the Police Department and all officers of the Department shall be under his immediate supervision, direction and control. The animal control shelter shall be under the immediate supervision, direction and control of the Chief of Police. The Chief of Police shall ensure the laws of the State of Idaho and ordinances of the City are obeyed and executed, and he shall have such other powers and duties prescribed herein or granted or imposed by law. The Chief of Police may be removed, with or without cause, by the Mayor, subject to confirmation by a vote of at least four members of the Council, provided the Council may, on its own initiative, remove the Chief upon a unanimous vote of the full Council. (Ord. 2286, 8-27-98; Ord. 3003, 04-23-15)
3-1-5: POLICE OFFICERS: All police officers shall be subject to the direction of the Mayor, Council and Chief of Police. All police officers shall perform all duties of policemen, preserve order and peace, ensure all laws are enforced, and carry out the lawful instructions of the Chief in all matters pertaining to the enforcement of laws and the protection of persons and property within the City.

3-1-6: PERSONNEL TO WEAR UNIFORMS: All police officers on duty shall wear such uniforms as may be approved by the Mayor and Council.

3-1-7: REPORTS: All police officers shall report to his or her immediate supervisor every violation of law observed while on duty. If any police officer uses force by gun, club, fist, weapon of any kind or uses physical force in any manner upon any person, the officer shall immediately report the same in writing to the Chief of Police or the commanding officer on duty. Such report shall detail the time, place and circumstances, and the necessity for the use of such violence, and the identities of any persons present at the time.

3-1-8: CONDUCT OF POLICE OFFICERS: All police officers on duty shall refrain from drinking any spirited liquor, wine, beer or any intoxicating beverage, nor shall any officer perform any duty of their office while in an intoxicated condition; nor shall they, whether on or off duty, violate any laws or ordinances of the City, the State of Idaho or the United States, or conduct themselves in any manner which brings disrespect to the City or the Police Department. (Ord. 3003, 04-23-15)

3-1-9: REMOVAL OF POLICE OFFICERS: Any officer who neglects or refuses to report any violation of law by any other officer of the police force, or who fails to observe the rules or regulations of the Police Department the, may be removed from office. Such removal shall be in accordance with the Personnel Policy, relevant laws, ordinances, and Police Department rules and regulations. A non-probationary police officer shall be removed from office, suspended, demoted, or discharged only for cause, based upon the preponderance of evidence and materials considered. (Ord. 3041, 10-12-15; Ord. 3171, 04-12-18)

3-1-10: ARRESTS: A police officer may make an arrest in obedience to a warrant of arrest delivered to him, or may, without a warrant, arrest a person as permitted by Idaho Code Section 19-603 or in any other manner allowed by the laws and Constitution of the State of Idaho. (Ord. 3041, 10-12-15)

3-1-11: DUTIES OF CHIEF REGARDING UNLICENSED BUSINESSES: The Chief of Police shall enforce all laws and ordinances pertaining to the licensing of any business, occupation or enterprise in the City. (Ord. 3041, 10-12-15)

3-1-12: OATH OF OFFICERS: The Chief of Police and every police office before entering upon his or her duties shall subscribe to the official oath set forth in Chapter 9, Title 1 of this Code. (Ord. 3041, 10-12-15)

3-1-13: OUTSIDE EMPLOYMENT: No member of the Police Department shall engage in any other employment or undertaking which will interfere with the performance of his or her duties or which will bring disrespect upon the City or the Department. Before engaging in any outside employment or undertaking, all members of the Police Department shall comply with the current
Personnel Policy and Department Policy. (Ord. 3003, 04-23-15; Ord. 3041, 10-12-15; Ord. 3171, 04-12-18)

3-1-14: APPOINTMENT OF SPECIAL POLICE OFFICERS: The Mayor may appoint special police officers to serve during a limited period and they shall conform to all of the rules and regulations as regular police officers, except that they need not be in uniform. Upon such appointment and their subscription to the official oath, such special officers shall have all authority to act as peace officers, under the provisions of this Chapter, provided, however, in no event shall such appointment be for a period greater than one (1) year. (Ord. 3041, 10-12-15)

3-1-15: UNCLAIMED PERSONAL PROPERTY: The Chief of Police and officers of the Department may take possession of any automobile, bicycle, wagon or other conveyance, machine, implement or other item of personal property found deserted and unclaimed for a period of twenty four (24) hours upon the streets or public property of the City. The Chief of Police and any officer of the Police Department may take possession of any real personal property left or found upon private property when the ownership is unknown, when requested to do so by the owner of such real property. (Ord. 3003, 04-23-15; Ord. 3041, 10-12-15)

3-1-16: RECORD OF UNCLAIMED PROPERTY: All unclaimed property taken into possession shall be listed in a book with the following information:

   (A) Place where found or taken possession of;
   (B) Description of the article;
   (C) Name of officer taking possession of the article;
   (D) Date of taking possession;
   (E) The identity, address and telephone number of the person reporting the property as abandoned. (Ord. 3041, 10-12-15)

3-1-17: ADVERTISEMENT AND SALE OF UNCLAIMED PROPERTY:

   (A) Duty to Advertise and Sell: The Chief of Police may advertise and sell at public auction any unclaimed article of personal property but only if any unclaimed bicycle has been held for a period of at least ninety (90) days, any unclaimed personal property with a fair market value of less than twenty five dollars ($25.00) has been held for a period of at least thirty (30) days, and any other unclaimed personal property has been held for a period of at least six (6) months. Such sales shall be in accordance with the provisions of this Chapter.

   (B) Notice of Sale: A Notice of Sale shall be published at least once a week for not less than two (2) consecutive weeks in the official newspaper, with the second publication being not less than five (5) nor more than ten (10) days before the date of the sale. Whenever the Police Department knows the name and address of the owner or other person entitled to possession of any article to be sold at such sale, a copy of the notice of sale shall also be mailed to such owner or other person entitled to possession at his or her last known address, postage prepaid, at least five (5) days prior to such sale.

CITY CODE OF THE CITY OF IDAHO FALLS 77
(C) Conduct of Sale: The sale shall be by public auction for cash, lawful money of the United States of America. The Chief of Police may determine the number of items to be sold at the sale and may determine whether these items are sold singly or in lots. The Chief of Police, upon request, shall give or cause to be given a bill of sale to the highest bidder upon payment of the amount bid. All goods shall be sold as is and without warranty of title, merchantability, fitness, or other express or implied warranty of any kind or nature.

(D) Proceeds: The proceeds of sale shall be applied first to all costs assessed or incurred against the personal property so sold including any storage charges and expenses of sale incurred by the City Clerk and the Police Department, and the balance of such proceeds, if any, shall be deposited in a separate fund with the City Treasurer for a period of one (1) year from the date of sale. Any person claiming title to, or ownership of, such proceeds by reason of ownership of such personal property at the time of sale shall make written application therefor to the Police Department. If satisfactory proof of such title or ownership is furnished within one (1) year of the receipt of such proceeds, then the proceeds shall be delivered to the claimant. If no claim and proof is made before the expiration of one (1) year from the date of the receipt of the proceeds, the same shall be credited to the general fund of the City, and no claim therefor shall be thereafter considered. (Ord. 3003, 04-23-15; Ord. 3041, 10-12-15)

3-1-18: REIMBURSEMENT TO OWNER: If the owner of any article held under the provisions of this Chapter, appears prior to the time of such sale and makes proper proof of ownership, the Chief of Police shall deliver possession thereof to the owner upon payment of any storage costs therefor. The Chief of Police shall from time to time prepare a uniform schedule of reasonable storage charges for such articles, which schedule shall be filed with the City Clerk and at the office of the Police Department. (Ord. 3003, 04-23-15; Ord. 3041, 10-12-15)

3-1-19: EXTRATERRITORIAL POWERS: All police officers may exercise, to the fullest extent permitted by law, all extraterritorial authority conferred upon them pursuant to Idaho Code Section 67-2337, may make arrests and issue citations while in fresh pursuit of any person who has violated any state law or City ordinance, and shall aid and assist the Mayor in enforcing any extraterritorial powers or authority as set forth in this Code. (Ord. 3041, 10-12-15)
CHAPTER 2
FIRE DEPARTMENT

SECTION:

3-2-1: Creation of Department
3-2-2: Appointment of Chief and Assistant Chief
3-2-3: Supervision and Removal of Fire Chief
3-2-4: Duties of Department
3-2-5: Establishment of Department of Fire Prevention
3-2-6: Limitation of Outside Employment
3-2-7: Fire Chief to Make Monthly Report
3-2-8: Scope of Duties
3-2-9: EMS Division

3-2-1: CREATION OF FIRE DEPARTMENT: The Fire Department is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-2-2: APPOINTMENT OF CHIEF: The Mayor, subject to confirmation of the Council, shall appoint the Fire Chief. The Department shall be managed by the Fire Chief and, in his or her absence or removal, by the Fire Department employee who is next in command to the Chief. The Fire Chief may, subject to the approval of the Mayor, hire Department Chiefs and other officers and employees necessary for the proper operation of the Department. (Ord. 3003, 04-23-15)

3-2-3: SUPERVISION AND REMOVAL OF FIRE CHIEF: The Fire Chief shall be supervised by the Mayor and Council and may be removed, with or without cause, at any time by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council.

3-2-4: DUTIES OF FIRE DEPARTMENT: The Fire Chief shall manage the Fire Department, and the equipment and property belonging thereto, and shall supervise and direct the Department in preventing and fighting fires; preventing conditions hazardous to life, property or public welfare in occupancy of structures or premises; reducing fire hazards in the structure or on the premises from occupancy or operation; matters related to the construction, extension, repair alteration or removal of fire suppression or alarm systems; and conditions affecting the safety of fire fighters and emergency responders during emergency operations. (Ord. 3003, 04-23-15)

3-2-5: ESTABLISHMENT OF FIRE PREVENTION DIVISION.

(A) The Chief of the Fire and Public Safety Department shall appoint a Fire Code Official for the purpose of administering and enforcing the Fire Code.

(B) The Fire Code Official shall have the general authority and responsibilities specified within the International Fire Code necessary for the implementation, administration, and enforcement of the Fire Code.

(C) In accordance with the procedures of the City and those prescribed by the Chief of the Fire and Public Safety Division, the Fire Code Official shall have the authority to appoint
inspectors and designees as necessary to administer the Fire Code Official’s duties under the Fire Code. (Ord. 3253, 05-13-19)

3-2-6: LIMITATION OF OUTSIDE EMPLOYMENT: No member of the Fire Department shall engage in any other employment or undertaking that will interfere or conflict with their duties as a member of the Department. All members of the Department shall first request the approval of the Fire Chief before engaging in such employment or undertaking, which approval shall be in writing. (Ord. 3003, 04-23-15)

3-2-7: FIRE CHIEF TO MAKE MONTHLY REPORT: The Fire Chief shall make reports to the Mayor and Council, as requested. (Ord. 3003, 04-23-15)

3-2-8: SCOPE OF DUTIES: Nothing in this Chapter, the International Fire Code, or any other fire or public safety code adopted by the City, shall create a private duty or obligation of the City to any person, or give rise to any private right of action, on account of any failure by the City or any member of the Fire Department to perform the duties prescribed therein. (Ord. 3003, 04-23-15)

3-2-9: EMS DIVISION.

(A) Establishment of EMS Division. There is hereby established within the Idaho Falls Fire Department, a unit known as the Emergency Medical Services Division. The primary function of such division shall be to coordinate and regulate the delivery of emergency medical services provided to persons residing in or otherwise located within City limits. The EMS Division shall have the authority and responsibility to establish and enforce standards for pre-hospital patient care and patient transports.

(B) DEFINITIONS. As used in this Section:

ADVANCED EMERGENCY MEDICAL TECHNICIAN - AMBULANCE (AEMT-A). An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of an intermediate training program, examination, subsequent required continued training and recertification.

ADVANCE LIFE SUPPORT. The provision of medical care, medication administration and treatment with medical devices which correspond to the knowledge and skill objectives in the EMT-Paramedic curriculum currently approved by the EMS Bureau of the Idaho Department of Health and Welfare.

AMBULANCE. Any privately-owned motor vehicle used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport.

ATTENDANT DRIVER. A person who is qualified and licensed in accordance with this Chapter as both an ambulance attendant and ambulance driver.
CERTIFICATION. A credential issued to an individual by the EMS Bureau for a specified period of time indicating that minimum standards corresponding to one (1) or several levels of EMS proficiency have been met.

CERTIFIED PERSONNEL. Individuals who have completed training and successfully passed examinations for training and skills proficiency in one (1) or several levels of emergency medical services.

CITY COUNCIL. The City Council of the City of Idaho Falls, Idaho.

CRITICAL CARE TRANSFER (CCT). Transportation of a patient who has received definitive care at a hospital, and who requires or may require care beyond the level of EMT-B for maintenance while being transported. Such care includes, but is not limited to starting and/or maintaining IV’s, drug administration, advanced airway care and cardiac monitoring and/or defibrillation.

EMERGENCY. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person’s health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part.

EMERGENCY MEDICAL SERVICES (EMS). The services utilized in responding to a perceived individual need for immediate care in order to prevent loss of life or aggravation of physiological or psychological Illness or Injury.


EMS DEPARTMENT. The Emergency Medical Services Department of the City of Idaho Falls, Idaho.

FIRST RESPONDER. An individual certified by the EMS Bureau of the Idaho Department of Health and Welfare as a First Responder on the basis of successful completion of a First Responder course approved by the Board of Health and Welfare and subsequent required continuing training.

OUT-OF-HOSPITAL CARE. Any setting outside of a hospital, including inter-facility transfers, in which the provision of EMS may take place.

PATIENT. An individual who is sick, injured, wounded, or otherwise incapacitated or in need of medical assistance or transportation by an ambulance.
PERSON. Any individual, firm, partnership, association, corporation, trust group of individuals acting together for a common purpose, or organization of any kind, excluding any public corporation or agency.

PRE-HOSPITAL CARE. Any setting (including standbys) outside of a hospital, with the exception of inter-facility transfer, in which the provision of EMS may take place.

TRANSFER. The transportation of a patient from one medical care facility to another by ambulance.

TRANSPORT NURSE. A licensed professional nurse who provides critical care services with an organized transporting agency who is certified by the Idaho Board of Nursing, and who is also certified at a minimum as an EMT-B by the EMS Bureau of the Idaho Department of Health and Welfare on the basis of successful completion of a basic EMT training program, examination, subsequent required continuing training and recertification.

(C) AUTHORITY OF EMS DIVISION PERSONNEL. EMS Division personnel rendering emergency medical services at the scene of a medical emergency, injury or sudden onset of acute illness to which they have been dispatched or summoned shall be deemed to have complete medical and technical rescue authority until the patient is released to hospital staff upon arrival at a hospital.

(D) REQUIREMENTS FOR OPERATION; EXCEPTIONS.

1. It shall be unlawful for any person to conduct or operate an emergency medical service, including stand-by services, within the City of Idaho Falls without first obtaining an Ambulance License, issued pursuant to this Section.

2. It shall be unlawful for any person to operate or permit to be operated, an ambulance within the City of Idaho Falls unless each driver and attendant on board each ambulance holds a current Attendant-Driver license, issued pursuant to this Section. Such license shall be kept upon the Licensee’s person while operating an ambulance or providing EMS services.

3. This Section shall not apply to:

   a Ambulances operated by an agency of the United States, the State of Idaho, the City of Idaho Falls, or a political subdivision of the State of Idaho.

   b An ambulance operated from a location outside of the City of Idaho Falls which solely transports patients to or from locations outside of Idaho Falls.

   c Persons providing EMS services solely with the use of aircraft of any type, either fixedwing or helicopter.

(E) CLASSIFICATION OF SERVICES.
1. General. Ambulance licenses issued pursuant to this Section shall set forth which of the following classification or classifications of services the licensee shall be permitted to perform with the licensed vehicle(s), and in performing such services each licensed vehicle shall conform with the staffing and equipment requirements for the type(s) of license(s) issued.

2. Class One. An ambulance staffed twenty-four (24) hours per day and equipped for emergency medical services authorized to be provided by one EMT-P and one EMT-B or Advanced EMT-A or two EMT-P’s.

3. Class Two. An ambulance staffed twenty-four (24) hours per day and equipped for emergency medical services authorized to be provided by two EMT-B’s.

4. Class Three. An ambulance staffed and equipped for non-emergency inter-facility transfer services. A properly licensed, staffed and equipped Class Three ambulance may provide care within the scope of practice of an EMT-B only. Minimum staffing for a Class Three ambulance shall consist of two EMT-B’s. All patient transfers to or from a medical facility by any EMS service with a Class Three License shall be a previously scheduled transfer of a convalescent or an inter-facility transfer as first authorized by a medical doctor or a doctor of osteopathy. Examples of allowed responses include, but are not limited to, pre-scheduled requests for transport to a medical facility for scheduled diagnostic testing by a physician, return trips from medical facilities to the patient’s private residence or extended care facility, routine trips or movement of patients from their private residence to extended care facilities, or to extended care facilities, and requests from Idaho Falls EMS for response assistance. Responses to acute illnesses and/or injuries, regardless of the location from which the call originates, are considered pre-hospital emergencies and shall not be handled by licensee under this Section, but must be turned over to the Idaho Falls EMS 911 center for response. Examples of such include, but are not limited to, orthopedic, neurological, cardiovascular, OB/GYN and pediatric requests for response, as well as calls received from emergency care centers for transport to hospitals. While performing standby service, a Class Three ambulance shall not transport any patient from the event, but shall initiate the 911 EMS response system.

5. Class Four. An ambulance staffed and equipped for non-emergency inter-facility transfer services. A properly licensed, staffed, and equipped Class Four ambulance may provide Critical Care Transport. Minimum staffing for a Class Four ambulance shall consist of two personnel, one of which must be an EMT-P or Registered Nurse (RN). The second person must be an EMT-B, EMT-P or RN. Each EMT-P or RN aboard a Class Four ambulance must also hold a current Advanced Cardiac Life Support (ACLS) Certificate issued by the American Heart Association of Idaho. The EMT-P or RN on a transfer aboard a Class Four ambulance must be trained to provide the specialty skills required for the transfer and certified as such by that service’s medical director. Examples of transfers requiring specialty skills include but are not limited to (a) neonatal critical care patients, (b) obstetrical critical care patients, and (3) cardiac critical care patients or any other medical/trauma patients requiring IV medications including medications administered by an IV pump.
All patient transfers to or from a hospital by services with a Class Four License shall be a previously scheduled transfer of a convalescent or an inter-facility transfer as first authorized by a medical doctor or a doctor of osteopathy. Examples of allowed responses include, but are not limited to, prescheduled requests for transport to a medical facility for scheduled diagnostic testing by a physician, return trips from medical facilities to the patient’s private residence or extended care facility, routine trips or movement of patients from their private residence to extended care facilities or extended care facilities to extended care facilities, and requests from Idaho Falls EMS for response assistance. Responses to acute illnesses and/or injuries, regardless of the location from which the call originates, are considered pre-hospital emergencies and shall not be handled by licensees under this Chapter, but must be turned over to the Idaho Falls EMS 911 center for response. Examples of such include, but are not limited to, orthopedic, neurological, cardiovascular, OB/GYN, and pediatric requests for response, as well as calls received from minor emergency centers for transport to hospital emergency rooms. Class Four ambulances may also transport any patient from any point outside Idaho Falls to a destination within Idaho Falls.

While performing standby service, a Class Four ambulance shall not transport any patient from the event, but shall initiate the 911 EMS response system.

(F) AMBULANCE LICENSE; TERM; FEES.

1. Ambulance licenses issued pursuant to this Section shall remain in effect from January 1 until December 31 of the year for which the license is issued, unless sooner revoked, terminated or suspended.

2. Each person seeking an EMS license shall pay an annual license fee as set from time to time by Resolution of Council.

(G) APPLICATION; INVESTIGATION; ISSUANCE OR DENIAL.

1. Applications for ambulance licenses or renewal licenses hereunder shall be made upon such forms as may be prepared or prescribed by the Fire Chief and shall contain:

(a) The name and address of the applicant and of the owner(s) of the ambulance service;

(b) The name under which the applicant does business or proposes to do business;

(c) The training and experience of the applicant in the transportation and care of patients;

(d) A description of each ambulance, including the make, model, year of manufacture, motor and chassis number; the length of time the ambulance has been in use; and the color scheme, insignia, name, monogram or other distinguishing characteristics to be used to designate the applicant’s vehicle;

(e) The location and description of the place or places from which it intends to operate;
(f) Proof of insurance as required by this Section;

(g) An address to which all written notices, requests, demands or other communications may be mailed for delivery to the applicant. It shall be the applicant/licensee’s responsibility to provide the Fire Chief with a current mailing address for the duration of the license term; and

(h) The name and mailing address of the licensee’s medical director.

2. Completed application forms with checklists, attachments and license fee shall be filed with the Fire Chief. The Fire Chief shall review the application for completeness and forward it to the City Council within ten (10) working days after its receipt. It shall be the duty of the Fire Chief or Fire Chief’s designee to cause an investigation to be made of the background and experience of each applicant, and to report the findings of such to the Council.

3. Within twenty-five (25) working days of receiving from the Fire Chief an application for a license, the Council shall issue or deny the license.

4. Upon review of an application for an ambulance license hereunder and upon review of the findings of the investigation required, the Council shall forthwith issue a license to the applicant if it finds:

   (a) that the application is timely and complete;

   (b) that all the requirements of this Section and other applicable laws and ordinances have been met;

5. An ambulance license issued under this Section shall not be assignable or transferable.

(H) INSURANCE.

1. No ambulance license shall be issued under this Section, nor shall such license be valid after issuance, nor shall any ambulance be operated in Idaho Falls unless there is at all times in force and effect insurance coverage, issued by an insurance company licensed to do business in the State of Idaho, naming Idaho Falls as an insured party, for each and every ambulance owned and/or operated by or for the applicant or licensee, providing for the payment of damages:

   (a) For injury to or death of any person or persons in accidents resulting from any cause for which the owner of said vehicle or his agent would be liable on account of liability imposed on him by law;

   (b) For injury or death of any patient or patients resulting from any cause for which the owner of said vehicle or his agent would be liable on account of liability imposed on him by law;
(c) For the loss of or damage to the property of another, including personal property, resulting from any for which the owner of said vehicle or his agent would be liable on account of liability imposed on him by law; and

(d) The policy limits of such insurance shall be in an amount set from time to time by Resolution of Council.

2. Prior to a license being issued or renewed, the applicant/licensee shall provide the Fire Chief with a certificate of insurance, issued by the insurer, evidencing existence and limits of Applicant’s policy.

3. No ambulance license shall be issued under this Section, nor shall such license be valid after issuance, nor shall any ambulance be operated in Idaho Falls unless there is at all times in force and effect a Medical Malpractice Policy covering the licensee and its employees and Medical Director. The policy limits of such insurance shall be at least $1,000,000 per occurrence and $1,000,000 aggregate.

4. Every insurance policy required hereunder shall extend for the period to be covered by the license applied for, and the insurer shall be required to give not less than ten (10) days written notice to the Fire Chief and to the insured before any cancellation or termination thereof earlier than its expiration date, and the cancellation or other termination of any such policy shall automatically revoke and terminate the licenses issued for the ambulances pursuant to this Section, unless another insurance policy complying with the provisions of this Section shall be provided and be in effect at the time of such cancellation or termination. (Ord. 2964, 8-14-14)

(I) MINIMUM EQUIPMENT REQUIREMENTS. Each ambulance licensed under this Section shall be equipped, at a minimum, in compliance with the “Minimum Equipment Standards for Licensed EMS Services” as issued by the Idaho EMS Bureau of the Idaho Department of Health and Welfare, as may be amended from time to time.

(J) COMMUNICATIONS EQUIPMENT REQUIREMENTS. Each ambulance shall be equipped and maintained at all times by the operator with a two-way radio operating on assigned frequencies and licenses as granted by the Federal Communication Commission (FCC) sufficient to enable ambulance personnel to communicate from the vehicle clearly with:

1. Hospitals, on assigned FCC primary frequency;

2. Hospitals, on assigned FCC secondary frequency;

3. City of Idaho Falls - EMS dispatch center, on its primary frequency, to be used for emergency purposes only;

4. Other ambulances owned by same operator. Equipment shall include that required by State of Idaho regulations as they may be amended from time to time.

(K) AMBULANCE STANDARDS.
1. Each ambulance licensed under this Chapter shall be maintained in good mechanical repair and sanitary condition at all times. Each ambulance shall meet or exceed any federal, industry or trade specifications or standards for ambulance vehicles. Each ambulance must display “Emergency, Dial 911.”

2. Each ambulance shall be parked in a covered structure with access to an electrical outlet.

(L) MEDICAL CONTROL.

1. Medical Director. Each ambulance service licensed under this Section shall employ, or have under contract at all times, a medical director who shall be a licensed medical doctor or doctor of osteopathy practicing within the City. Each medical director shall consult with the Idaho Falls EMS Medical Director to ensure that the ambulance service complies with City of Idaho Falls’ standards and directives on pre-hospital patient care and patient transports.

2. Quality Assurance. On a semi-annual basis, the licensee’s medical director shall review a minimum of twenty-five percent (25%) of all critical care transports and transports by the licensee. The licensee’s medical director shall forward a semi-annual report to the Fire Chief listing the number and type of transports reviewed and shall certify that all such transports complied with the provisions of this Section or explain in detail the reasons why compliance was not had and the remedial measures undertaken to correct such non-compliance. All reports shall cover the periods of January to June and July to December and shall be due within thirty (30) days after the conclusion of the preceding semi-annual period.

3. Continuing Education. On or before February 1 of each year, the licensee’s medical director shall certify that all critical care personnel have completed during the preceding year a minimum of twenty (20) hours of continuing education relative to critical care transfer procedures and current pharmacology. The licensee’s medical director shall also forward with such confirmation a report listing the topics and number of hours per topic for each employee.

(M) ADVERTISEMENT FOR AMBULANCE SERVICES. All advertisements and telephone listings for Class Three, and Class Four ambulance service shall indicate non-acute, transfer capabilities only, and shall include “In case of an emergency, Dial 911.” All ambulances must conspicuously display “For Emergency Medical Services, Dial 911” on the exterior of the vehicle.

(N) USE OF WARNING DEVICES; EMERGENCY RESPONSE.

1. Warning Devices. Ambulance services licensed under this Section are not authorized to provide transport services which would require the use of emergency warning devices, and shall not use any warning devices, except:

   (a) When requested by Idaho Falls EMS Division to provide assistance during major incidents or disasters or for other requests of Idaho Falls;
(b) During neo-natal transfers;

(c) During critical care transfers; or

(d) When, during transportation, a patient’s condition deteriorates rapidly and life would be threatened without rapid transportation to the nearest hospital. In all transfers and transports requiring the use of warning devices, the ambulance shall notify Idaho Falls Dispatch of initiation of use of the warning device and of the ambulance’s arrival at its destination. The licensee shall follow specific radio procedures and guidelines for communication with Idaho Falls Dispatch, as determined by the Idaho Falls EMS Division.

2. Emergency Responses. Ambulances licensed under this Section shall be allowed to operate at a maximum of ten (10) miles per hour in excess of the posted speed limit while operating in an emergency mode and shall comply with all state laws pertaining to emergency responses. When driving through an intersection while responding in an emergency mode, speed should be such that the vehicle may be stopped immediately to avoid a collision. When entering an intersection that is controlled by a stop sign, yield sign, a yellow light, or a red light, ambulances shall enter at a safe and appropriate speed not to exceed twenty (20) miles per hour, except in the following situations, where the ambulance must reduce its speed to five (5) miles per hour or less:

   (a) All intersections in any high-density residential or commercial areas; and

   (b) Any intersection that has limited visibility in any direction. When entering controlled intersections on a green light, the ambulance shall not exceed the posted speed.

(O) MAINTENANCE AND REVOCATION OF EMS LICENSE.

1. Maintenance of EMS License. Each ambulance operated under a license issued under this Section shall, at all times when in use as such, comply with all licensing, personnel and equipment requirements of this Section and be licensed by the State of Idaho, Department of Health and Welfare, EMS Bureau. Each ambulance service must comply with all federal, state, and local rules, regulations, standards and guidelines pertaining to the operation of ambulance services.

   (a) Each licensed ambulance, its equipment and the premises designated in the application, and all records relating to its operation as such, shall be open to inspection by the Fire Chief or the Fire Chief’s designated representative(s) during regular business hours.

   (b) Copies of patient flow sheets and documentation of personnel present on each call, redacted to protect patient confidentiality, shall be provided to the Fire Chief or the EMS Division Chief upon request.
(c) The Fire Chief or the Fire Chief designated representative may cause such investigations to be made of licenses from time to time as it may find necessary to ensure continued compliance with this Section.

2. Revocation of EMS License.

(a) Grounds for Revocation. Violation of, or failure of a licensee to comply and maintain compliance with, any applicable provisions, standards or requirements of this Section or of any regulation promulgated hereunder, or any other federal; state, or local rules, regulations, standards or guidelines pertaining to the operation of ambulance services, shall be grounds for suspension, revocation, or termination of a license issued under this Section. The Fire Chief may recommend, and Council may suspend, revoke, or terminate a license issued under this Section for cause, after notice and a hearing.

(b) Procedure. Upon receipt of any complaint against a licensee, the Fire Chief shall investigate the allegations and hold a hearing on the complaint. Notice of the hearing shall be mailed to the licensee’s last provided address and shall include:

1. A statement of time, place, and nature of the hearing;

2. A statement of the legal authority and jurisdiction under which the hearing is to be held;

3. A reference to the particular sections of the ordinance regulations involved;

4. A short and plain statement of the matters asserted. The hearing shall be held before the Fire Chief no later than fifteen (15) days after notice is mailed. The Fire Chief will have the burden of establishing by a preponderance of evidence that grounds for suspension, revocation or termination exists. The licensee shall be afforded an opportunity to respond and present relevant evidence and argument on all issues involved. Within fifteen (15) days after the conclusion of such hearing, the Fire Chief shall issue proposed findings of fact, conclusions of law, and its recommendation to Council. Within fifteen (15) days of receipt of the Fire Chief’s recommendation, Council shall issue its findings of fact, conclusions of law and its order. Council may require the presentation of additional testimony or evidence by the Fire Chief or licensee. Upon suspension, revocation, or termination of an ambulance license hereunder, such ambulance shall cease operations as such.

(P) ATTENDANT-DRIVER LICENSE REQUIREMENTS. To be eligible for issuance of a license as an attendant-driver, an applicant shall:

1. Be at least eighteen (18) years of age;
2. Hold a valid State of Idaho driver’s license;

3. Be currently certified at a minimum as an EMT-B;

4. Be able to speak, read and write the English language;

5. Never have been convicted of a felony;

6. Not have been convicted of a violation of Idaho Code Section 18-8004 within five (5) years prior to the date of application for license; and

7. For renewal of an Attendant-Driver License for a person who provides Critical Care Transport services, licensee must provide a letter from licensee’s medical director stating that licensee has received at least twenty (20) hours of continuing education relative to critical care transport procedures in the preceding year.

(Q) APPLICATION; INVESTIGATION.

1. Application. An application for an Attendant-Driver License under this Section shall be submitted upon such forms as may be provided or prescribed by the Fire Chief and the application shall contain:

   (a) The applicant’s full name, current residence, places of residence for three (3) years previous to moving to the present address, together with an address for written notices, if different than his or her current residence.

   (b) The applicant’s birth date, height, color of eyes and hair;

   (c) Whether applicant has ever been convicted of a felony or misdemeanor, and, if so, when and where and for what cause;

   (d) The applicant’s training and experience in the transportation and care of patients, and whether the applicant has previously been licensed as a driver, and if so, when and where, and whether a license has ever been revoked or suspended in any jurisdiction and for what cause; and

   (e) Annual license fee as set from time to time by Resolution of Council.

2. Investigation. Within a reasonable time after receipt of an application for an Attendant Driver License, the Fire Chief shall cause an investigation to be made of the applicant.

3. The Fire Chief shall issue an Attendant-Driver License to the applicant when it is found that the applicant has met all requirements. The license shall be valid for one calendar year, beginning January 1 and ending December 31, unless earlier suspended, revoked, or terminated. Such license shall not be assignable or transferable.

(R) REVOCATION.
1. In order to maintain such license, the holder of an Attendant- Driver License shall remain in compliance with the requirements of this Section. Each attendant-driver and the attendant-driver’s employer shall have an affirmative duty to immediately notify the Fire Chief of any changes or occurrences which may affect the license holder’s status. Failure to maintain compliance with the requirements to obtain an attendant-driver license shall be cause for suspension, revocation, or termination of the Attendant- Driver License.

2. An Attendant- Driver License may be revoked by the Fire Chief for any cause after notice and a hearing. Notice shall be in writing and sent by first class, postage prepaid, United States mail to both the attendant-driver, at the most current address provided by licensee, and to the attendant driver’s employer, at its most current provided address. Notice shall contain:

   (a) A statement of time, place and nature of the hearing;

   (b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

   (c) A reference to the particular sections of the ordinance regulations involved;

   (d) A short and plain statement of the matters asserted.

3. The notice and hearing procedure shall be the same as for revocation of an Ambulance License, as specified in Section O. (Ord. 3004, 04-23-15)
CHAPTER 3
MUNICIPAL SERVICES DEPARTMENT

SECTION:

3-3-1: Municipal Services Department Established
3-3-2: Appointment of Municipal Services Director
3-3-3: Duties
3-3-4: Divisions

3-3-1: MUNICIPAL SERVICES DEPARTMENT ESTABLISHED: The Department of Municipal Services is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-3-2: APPOINTMENT OF MUNICIPAL SERVICES DIRECTOR: The Department of Municipal Services shall be managed by a Municipal Services Director who shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to confirmation by a vote of at least four members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof. (Ord. 3003, 04-23-15)

3-3-3: DUTIES: The Director of Municipal Services shall have the duty of planning, organizing, supervising and administering all activities and responsibilities of the Department. (Ord. 3003, 04-23-15)

3-3-4: DIVISIONS: The Department shall consist of five (5) divisions, each having the following powers and duties:

(A) The General Services Division shall manage and supervise all City shops, garages, including all equipment and vehicles; administer and maintain all public buildings and other real or personal property owned or leased by the City; and administer and control the purchase of all equipment and supplies used by the various departments and divisions throughout the City.

(B) The Finance Division shall prepare, supervise and control the annual budget, supervise the general account of the City, maintain and keep records of all insurance coverage; account for all City utilities revenues; account for all moneys belonging to the City, file proper reports and financial statements.

(C) The City Clerk shall have custody of all laws and ordinances of the City; keep a correct journal of the proceedings of the City Council; keep the Corporate Seal of the City; countersign all licenses issued by the City and collect all fees therefor; keep the records of all City cemeteries; and perform all other duties required by the City Code or the laws of the State of Idaho.

(D) The City Treasurer shall be custodian of all moneys belonging to the City and shall render a monthly report under oath showing the state of the balance of all monies and funds belonging to the City; manage and deposit all City funds; and have charge of all funds and records of local improvement districts; invest all public funds in a sound, prudent and lawful manner and keep a record of all unpaid checks or warrants of the City; keep a record of all outstanding bonds against the
City, showing the amount of each, to whom the bonds were issued and when any bonds are purchased, paid or cancelled; collect all utility revenue, and perform all other duties imposed upon the office by law.

(E) The Data Processing Division shall be responsible to operate and maintain all computer and electronic media record-keeping equipment for the Department; to administer and supervise all data entry, computer programming and other record-keeping or electronic data retrieval operations of the Department. (Ord. 2734, 1-10-08; Ord. 3003, 04-23-15)
CHAPTER 4
IDAHO FALLS POWER

SECTION:

3-4-1: Establishment of Department
3-4-2: Responsibilities and Duties
3-4-3: Management and Control
3-4-4: Duties of Director

3-4-1: ESTABLISHMENT OF DEPARTMENT: Idaho Falls Power (or “IFP” and formerly known as the “Electric Light Division”) is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-4-2: RESPONSIBILITIES AND DUTIES: Idaho Falls Power shall have the following responsibilities and authority:

(A) The construction, operation and maintenance of all electric distribution and transmission lines and facilities, hydroelectric generating plants and all equipment and facilities necessary to generate, transmit and distribute electrical energy to the customers of Idaho Falls Power;

(B) Administration and enforcement of all rules, regulations, ordinances and statutes pertaining to the distribution of electrical energy to customers of Idaho Falls Power, and the establishment of all rates, fees and tariffs charged to such customers;

(C) The administration of all covenants, terms and conditions on all ordinances providing for the issuance of bonds to construct any hydroelectric generating facility owned by the City, insofar as the same pertain to the construction, operation and maintenance thereof;

(D) The supervision and control of all employees of Idaho Falls Power;

(E) The installation, operation and maintenance of all traffic signalization equipment owned or operated by the City;

(F) The performance of all actions, duties or responsibilities as may be necessary for the sound, reasonable and prudent operation of Idaho Falls Power. (Ord. 3003, 04-23-15)

3-4-3: MANAGEMENT AND CONTROL: Idaho Falls Power shall be managed by the Director of Idaho Falls Power. The Director shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to a confirmation by a vote of at least four members of the Council, or by the Council upon its own initiative upon a unanimous vote of the full Council. (Ord. 3003, 04-23-15)

3-4-4: DUTIES OF DIRECTOR: The Director shall prepare and present the annual operating and capital budget of the Department; establish technical standards, methods and procedures for the Department and assure the same are properly executed; employ, assign or reassign all personnel within the Department and ensure all equipment is efficiently used and maintained; administer the operating budget of the Department in accordance with the annual appropriation ordinance adopted by the
Council; formulate and recommend to the Mayor and Council all policies and procedures for the planning, design, construction, maintenance and improvement of all hydroelectric generating facilities and electric distribution and transmission lines and equipment; and administer such policies and procedures as directed by the Mayor and Council. (Ord. 3003, 04-23-15)
CHAPTER 5
PUBLIC WORKS DEPARTMENT

SECTION:

3-5-1: Establishment of Public Works Department
3-5-2: Duties of the Department
3-5-3: Divisions
3-5-4: Management of Divisions
3-5-5: Public Works Director
3-5-6: Duties of Director
3-5-7: No Private Duty

3-5-1: ESTABLISHMENT OF PUBLIC WORKS DEPARTMENT:

The Department of Public Works is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-5-2: DUTIES OF THE DIVISION:

The Department of Public Works shall supervise and control:

(A) The construction, operation and maintenance of all public streets, sidewalks, alleys, bridges, highways and rights of way, including the placement and operation of street regulatory and informational signs.

(B) The construction, operation and maintenance of all sewer facilities and appurtenances, including sanitary sewers, pumping stations, storm sewers, drains, ditches, culverts and streams and water courses under the jurisdiction of the City.

(C) The administration of all rules, regulations and ordinances pertaining to the construction, maintenance and operation of all streets, sidewalks, rights of way, easements, sewers, sanitation facilities, waterlines and pumps, gas lines, telephone and communication lines and subdivision improvements.

(D) The making of all surveys, maps, public works plans, drawings and other documents required for the construction, maintenance and operation of all public works owned or operated by the City.

(E) The preparation of contract drawings, specifications and cost estimates for all public works construction and maintenance and the supervision of such construction, including field inspections.

(F) The construction, operation and maintenance of all public water supply and distribution facilities.

(G) The collection and disposal of all refuse and the cleaning of all streets and alleys, including the removal of snow therefrom.
(H) The collection, maintenance and distribution of mapping and geographic information including aerial photography, cadastral, water, sewer, storm, sanitation, snow, street, traffic, and related data. (Ord. 3003, 04-23-15)

3-5-3: DIVISIONS:

The Department shall consist of six (6) divisions, each having the following duties:

(A) The Engineering Division shall perform all engineering services, including the design and preparation of all contract drawings and specifications for all public works construction; the supervision and inspection of all such construction; the establishment of all street, alley and sidewalk grades; all city survey operations; and the review of all subdivision plats to determine compliance with applicable standards;

(B) The Water Division shall manage, operate and maintain all public water supply and distribution facilities in accordance with policies established by the Council;

(C) The Sewer Division shall operate and maintain all sanitary and storm sewer facilities owned or controlled by the City, and administer and enforce all ordinances relating to the construction or operation of sewers;

(D) The Street Division shall i) construct and maintain all public streets, highways, alleys, walks, pavements and surfaces, ii) manage and administer street cleaning, street repairs, snow removal and iii) administer and enforce all ordinances relating to the construction and maintenance of public streets, sidewalks, rights of way, easements and all utility and communication lines therein;

(E) The Sanitation Division shall be responsible for the collection and disposal of garbage, rubbish and other wastes.

(F) The Geographic Information Systems (GIS) Division shall be responsible for the administration of the collection, maintenance and distribution of mapping and geographic information including aerial photography, cadastral, electric, water, sewer, storm, sanitation, snow, street, traffic, and related data. (Ord. 3003, 04-23-15)

3-5-4: MANAGEMENT OF DIVISIONS:

Each division set forth above shall be supervised respectively by the City Engineer, the Water Superintendent, the Sewer Superintendent, the Street Superintendent, the Sanitation Superintendent, and the GIS Coordinator, all of whom shall perform their duties under the direction of the Public Works Director. (Ord. 2249, 10-9-97; Ord. 3003, 4-23-15)

3-5-5: PUBLIC WORKS DIRECTOR:

The Department of Public works shall be managed by a Public Works Director, who shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council on its own initiative, upon a unanimous vote of the full Council. (Ord. 3003, 4-23-15)
3-5-6: DUTIES OF DIRECTOR:

The Director shall, together with the division heads, prepare and present the annual operating and capital budgets of the several divisions of the Department. The Director shall have full authority to establish technical standards, methods and procedures for the Department and to see that they are properly executed. The Director shall have authority to employ, assign or reassign all personnel within the various divisions and to resolve all disputes between the divisions and resolve conflicting demands for labor and equipment. All public works construction projects approved by the Mayor and Council shall be carried out by the Director according to design and time schedules within allocated budgets. The Director shall formulate and recommend to the Mayor and Council policies and procedures for the planning, design, construction, maintenance, repair and improvement of all public works and places owned or operated by the City, except as otherwise provided in this Code. (Ord. 3003, 4-23-15)

3-5-7: NO PRIVATE DUTY:

Nothing in this chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Public Works Department to perform the duties prescribed herein. (Ord. 3003, 4-23-15)
CHAPTER 6
PARKS AND RECREATION DEPARTMENT

SECTION:

3-6-1: Establishment of Department

3-6-2: Management

3-6-3: Duties

3-6-1: ESTABLISHMENT OF DEPARTMENT: The Parks and Recreation Department is hereby established as an administrative department of the City. (Ord. 3003, 4-23-15)

3-6-2: MANAGEMENT: The Parks and Recreation Department shall be managed by the Parks and Recreation Director, under the supervision and control of the Mayor and Council. The Director shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council on its own initiate upon a unanimous vote thereof. (Ord. 3003, 4-23-15)

3-6-3: DUTIES: The Department shall have the following duties:

(A) The maintenance, operation and control of all public parks, playgrounds, swimming pools, community centers, camps, gymnasiums, race tracks, rodeo grounds and athletic fields owned by the City;

(B) The establishment and administration of all budgets for the operation of the Department and collection of all revenues accruing to the City on account of recreational facilities or lands owned by the City;

(C) The administration of all public recreational activities and programs sponsored by the City. (Ord. 3003, 4-23-15)
CHAPTER 7
AIRPORT DEPARTMENT

SECTION:

3-7-1: Establishment of Airport Department
3-7-2: Management
3-7-3: Responsibilities
3-7-4: Rules and Regulations

3-7-1: ESTABLISHMENT OF AIRPORT DEPARTMENT: The Airport Department (or “Idaho Falls Regional Airport” or “IFRA” or the “Airport” and formerly known as “Fanning Field” or “Idaho Falls Municipal Airport”) is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-7-2: MANAGEMENT: The Airport Department shall be managed by the Airport Director. The Airport Director shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Airport Director may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four members of the Council, or by the Council upon its own initiative upon a unanimous vote of the full Council. (Ord. 3003, 04-23-15)

3-7-3: RESPONSIBILITIES: The Airport Director shall have the following responsibilities and authority;

(A) Supervision and management of all uses, operations and maintenance of all facilities, appurtenances, structures and equipment at the Idaho Falls Regional Airport;

(B) To administer and enforce all rules, regulations, ordinances and statutes of the City, the State of Idaho and the United States of America, insofar as the same may be applicable to the operation of the Airport;

(C) To recommend and advise the Council regarding Airport development, federal and state grants, budgets, policies, operations and design and construction of new facilities;

(D) To supervise and control all employees of the Airport Department.

(E) To administer the budget of the Airport Department and to administer and ensure the collection of all revenues, fees, tariffs and charges derived from the operation of the Department;

(F) To provide for the safe, efficient and convenient operation of the Airport and the facilities, structures and improvements thereon; (Ord. 3003, 04-23-15)

3-7-4: RULES AND REGULATIONS: The Council may adopt reasonable operational rules and regulations for the Airport and for the safe and efficient operation thereof. Such rules and regulations shall be posted in a conspicuous place at the Airport and shall be published in pamphlet form and shall be distributed free of charge to all persons requesting the same.
3-7-5: NO PRIVATE DUTY: Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employee of the Airport Department to perform the duties prescribed herein. (Ord. 3003, 04-23-15)
CHAPTER 8
COMMUNITY DEVELOPMENT SERVICES DEPARTMENT

SECTION:

3-8-1: Community Development Services Department Established
3-8-2: Duties
3-8-3: Appointment of Director of Community Development Services Department

3-8-1: COMMUNITY DEVELOPMENT SERVICES DEPARTMENT ESTABLISHED: The Department of Community Development Services is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-8-2: DUTIES: The Community Development Services Department shall have the following duties:

   (A) The enforcement of the Zoning Ordinance, the Uniform Building Code, the Sign Code, the Uniform Plumbing Code, the Subdivision Ordinance, the Code for Abatement of Dangerous Buildings, the Uniform Housing Code, the Uniform Administrative Code, the Northwest Energy Code, the One and Two Family Dwelling Code, the Uniform Mechanical Code, Uniform Electric Code, and all supplements and amendments thereto and all other uniform codes or ordinances relating to the construction of any building or structure within the City and any health or safety regulations applicable thereto, except for the Uniform Fire Code.

   (B) Preparation and administration of the Comprehensive Plan and any ordinances or regulations necessary to implement the same.

   (C) The issuance and enforcement of permits issued pursuant to such Codes and the performance of inspections required thereby.

   (D) The establishment and planning of all public streets, alleys and thoroughfares within the City, the naming of such streets and thoroughfares and the issuance of building numbers for structures located thereupon.

   (E) The coordination and planning of public and private urban mass transit systems within the City.

   (F) The coordination and administration of all laws, statutes and regulations pertaining to any census of the City or other procedure or analysis conducted for the purpose of determining the population of the City.

   (G) Coordination and operation of all federal and state administrative programs providing for enhancement of the economic base of the City or otherwise promoting the growth and development of the labor force within the City.

   (H) Coordination and administration of any matter involving the Idaho Falls Redevelopment Agency or other similar board or commission whose responsibilities encompass the urban revitalization or growth of the City.

CITY CODE OF THE CITY OF IDAHO FALLS 102
(I) Such other duties as may be required by the Mayor or City Council. (Ord. 3003, 04-23-15)

3-8-3: APPOINTMENT OF DIRECTOR OF COMMUNITY DEVELOPMENT SERVICES DEPARTMENT: The Community Development Services Department shall be managed by the Community Development Services Director who shall be appointed by the Mayor, subject to confirmation by at least four (4) members of the Council. The Director may be removed by the Mayor, with or without cause, subject to confirmation by a vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof. (Ord. 3003, 04-23-15)
CHAPTER 9
HUMAN RESOURCES DEPARTMENT

SECTION:

3-9-1: Establishment of Human Resources Department
3-9-2: Management
3-9-3: Responsibilities of Director
3-9-4: No Private Duty Established

3-9-1: ESTABLISHMENT OF HUMAN RESOURCES DEPARTMENT: The Human Resources Department is hereby established as an administrative department of the City. (Ord. 2734, 1-10-08; Ord. 3003, 04-23-15)

3-9-2: MANAGEMENT: The Human Resources Department shall be managed by the Director of Human Resources. The Director of Human Resources shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The Director of Human Resources may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof. (Ord. 2734, 1-10-08; Ord. 3003, 04-23-15)

3-9-3: RESPONSIBILITIES OF DIRECTOR: The Director of Human Resources shall have the following responsibilities and authority:

(A) Assist the Mayor and other Department Directors in the recruitment of qualified officers and employees and in the classification of personnel.

(B) Make recommendations and administer programs relating to employee wages and benefits.

(C) Make recommendations to the Mayor and Council regarding the City Personnel Policy and assist the other Department Directors in the administration, management and enforcement thereof.

(D) Assist the Mayor and Department Directors in the processing of grievances filed by City employees.

(E) Make recommendations regarding employee benefit programs, including without limitation, health insurance, life insurance, retiree benefits, deferred compensation plans, PERSI programs and benefits, cafeteria plans or other compensation plans or benefits approved by the Council.

(F) Keep and maintain general employee personnel files and other personnel-related administrative records.

(G) Administer and manage labor relations, affirmative action programs and Title VII programs as directed by the Mayor and assist and train the other Department Directors in their duties, obligations and responsibilities with respect thereto.
(H) Establish, promote and foster appropriate employee safety programs and policies.

(I) Make recommendations to and assist the Council and the Director of Municipal Services in the preparation of the annual appropriation ordinance and budget, insofar as employee wages, benefits and claims may impact such ordinance and budget.

(J) Direct the work of and supervise all employees of the Human Resources Department.

(K) Administer the budget of the Human Resources Department and to account for and ensure that all fees, charges and revenues received by the Human Resources Department are delivered to the City Treasurer.

(L) Administer, manage and assume such other duties, programs and policies as may be directed by the Mayor. (Ord. 2734, 1-10-08; Ord. 3003, 04-23-15)

3-9-4: NO PRIVATE DUTY ESTABLISHED: Nothing in this Chapter shall create a private right, duty or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employees of the Human Resources Department to perform the duties prescribed herein. (Ord. 2734, 1-10-08; Ord. 3003, 04-23-15)
CHAPTER 10
CITY ATTORNEY DEPARTMENT

SECTION:

3-10-1: Establishment of Department
3-10-2: Appointment of City Attorney; Management
3-10-3: Responsibilities of City Attorney
3-10-4: No Private Duty Established

3-10-1: ESTABLISHMENT OF DEPARTMENT: The City Attorney Department is hereby established as an administrative department of the City. (Ord. 3003, 04-23-15)

3-10-2: APPOINTMENT OF CITY ATTORNEY; MANAGEMENT:

The City Attorney shall be appointed by the Mayor, subject to confirmation by a vote of at least four (4) members of the Council. The City Attorney may be removed by the Mayor, with or without cause, subject to a confirming vote of at least four (4) members of the Council, or by the Council upon its own initiative upon a unanimous vote thereof. The City Attorney Department shall be managed by the City Attorney. (Ord. 3003, 04-23-15)

3-10-3: RESPONSIBILITIES OF CITY ATTORNEY:

The City Attorney shall have the responsibilities and authority to:

(A) Act as the legal advisor of the City and represent the City in all suits or proceedings in which the City is interested.

(B) Perform duties as may be prescribed by ordinances and resolutions duly passed.

(C) Prosecute violations of City ordinances, state traffic infractions, and state misdemeanors committed within City limits by exercise of the same powers as the County prosecutor including, but not limited to, granting immunity to witnesses.

(D) Provide a wide range of independent legal-related advice, support, and information to the Mayor, City, County, City boards and commissions, and other officials of the City, in accordance with federal, state, and City legislation.

(E) Organize and oversee work of outside legal counsel, and determine scope of outside legal services, as needed.

(F) Exercise independent legal judgment in legal matters related to City activities and concerns.

(G) Participate in negotiation and resolution of sensitive, significant, controversial, and/or complex legal matters.
(H) Draft and review opinions, resolutions, ordinances, contracts, and other legal documents and instruments.

(I) Oversee preparation of departmental budget and City codification system.

3-10-4: NO PRIVATE DUTY ESTABLISHED:

Nothing in this Chapter shall create a private right, duty, or obligation of the City in favor of any person, or give rise to any private right of action, on account of any failure by the City or any employees of the City Attorney Department to perform the duties prescribed herein. (Ord. 2919, 06-13-13; Ord. 3003, 04-23-15)
TITLE 4  
BUSINESS REGULATIONS  

CHAPTER:  SUBJECT:  

1  Business Licenses  
2  Liquor by the Drink  
3  Beer  
4  Wine  
5  Public Right-of-Way Contractors  
6  Private Patrol Services  
7  Building Contractors  
8  Door-to-Door Solicitors  
9  Burglary and Robbery Alarms  
10  Emergency Medical Services  
11  Lawn Sprinkler and Water Conditioning Licenses  
12  Itinerant Merchants, Mobile Food Vendors and Door-to-Door Salesmen  
13  Pawnbrokers, Secondhand Precious Metal Dealers and Secondhand Stores  
14  Scrap Dealers  
15  Public Transportation  
16  Adult Businesses  
17  Hotels  
18  Photographers  
19  Public Dancing Establishments
CHAPTER 1
BUSINESS LICENSES

SECTION:

4-1-1: License Required
4-1-2: Issuance of Licenses
4-1-3: License Fees Payable in Advance
4-1-4: Application for License
4-1-5: Temporary License
4-1-6: Approval of License
4-1-7: License Nontransferable
4-1-8: Separate Licenses Required
4-1-9: Revocation of Licenses
4-1-10: Licenses to be Displayed
4-1-11: Expiration Date

4-1-1: LICENSE REQUIRED: No person shall operate, conduct or engage in any industry, vocation, occupation, trade or other business subject to the provisions of this Title without first obtaining an appropriate license from the City. Licenses shall be issued upon payment of the fees specified in this Title, upon the applicant's compliance with the applicable provisions of this Title and upon approval of the City Council. All licenses shall be a personal privilege of the holder. Except as expressly provided in this Title, a license shall become null and void if the holder ceases to personally supervise, conduct and operate the trade or business for which the license has been issued. Unless otherwise provided in this Title, no license fee or any part thereof may be refunded even though the licensee does not operate for the period or any portion of the period for which the license was issued.

4-1-2: ISSUANCE OF LICENSES:

(A) The City Clerk shall prepare license forms for licenses issued under this Title. The license shall specify the holder's name, the type of business licensed, the principal place of business of the licensee and the expiration date of the license. The Clerk shall account for all licenses signed by the Mayor, shall countersign the licenses and deliver the licenses to licensees. The City Clerk shall collect all license fees and promptly deliver them to the City Treasurer. The City Treasurer shall issue a receipt for any license fees received from the Clerk.

(B) All licenses shall be issued or denied by the City Clerk, based upon the recommendation of the Chief of Police. Such recommendation shall be in writing and shall set forth the pertinent facts and reasons supporting such recommendation, including references to applicable statutes, ordinances or provisions of the City Code, if any. The City Clerk shall forthwith notify the applicant in writing of the approval or denial of the application, and if denied, shall summarily set forth the reasons for the denial in such notification.

(C) Any applicant may appeal a denial of his or her application by filing a notice of appeal with the City Clerk, within ten (10) days after the date the denial is delivered to the applicant. The notice of appeal shall be in such form as may be approved by the City Clerk and shall in summary form set forth the reasons for the appeal. Such notice of appeal shall be accompanied by a filing fee in an amount set from time to time by Resolution of the Council. Such filing fee shall be non-refundable.
Upon timely delivery of a notice of appeal and payment of the filing fee, the City Clerk shall schedule a hearing before the City Council within thirty (30) days after the delivery of the notice of appeal. The City Clerk shall also deliver a written notice of hearing to the applicant not less than seven (7) days prior to the date of such hearing. A copy of the notice of hearing shall likewise be sent to the Chief of Police. At the hearing, the City Clerk shall keep a transcribable, verbatim record of the hearing, including any exhibits or documentary evidence and shall retain such transcript for a period of not less than six (6) months following the conclusion of the hearing. At the conclusion of the hearing, the City Council shall render a decision, which may be verbal or in writing. Such decision shall succinctly state the reasons for the denial or affirmation of the decision of the City Clerk. (Ord. 2964, 8-14-2014)

4-1-3: LICENSE FEES PAYABLE IN ADVANCE: License fees shall be paid in advance at the office of the City Clerk.

4-1-4: APPLICATION FOR LICENSE: Any person desiring to obtain any license provided for in this Title shall first apply in writing under oath to the Council. The application together with the license fee shall be delivered to the City Clerk. The City Clerk shall prescribe the form of the application. The application shall contain the following information.

(A) Applicant's full name, form of doing business, (i.e. sole proprietorship, partnership or corporation) and the name under which the business is to be conducted;

(B) Applicant's state of residence and principal place of business;

(C) Applicant's business and residential mailing addresses and telephone numbers;

(D) The street address within the City where each place of business is to be conducted;

(E) The nature of the business to be licensed;

(F) The number of years the applicant has engaged in such business;

(G) The zoning of the property on which the business will be conducted; and

(H) Any other information required by this Title or by the Clerk in order to determine the applicant's fitness or qualifications for the license.

The City Clerk shall forward a copy of each business license application to the Chief of Police, the Fire Chief, the Director of Community Development Services and the State of Idaho Department of Health, as applicable, and other appropriate City Department Directors for their review and recommendation. (Ord. 3003, 04-23-15)

4-1-5: TEMPORARY LICENSE: Upon receipt of the affirmative recommendation of the Chief of Police, Fire Chief, Director of Community Development Services, and other City Department Directors, as appropriate, the Clerk may issue a temporary license to any applicant, except applicants who require a criminal history or background check, unless the ordinance specifically allows for a temporary license. (Ord. 2234, 5-22-97; Ord. 2762, 6-24-08; Ord. 3003, 04-15-15)
4-1-6: APPROVAL OF LICENSE: Except as otherwise provided in this Title, the City Clerk shall present all license applications to the Council not later than the second regular Council meeting after the application was delivered to the Clerk. At that meeting, the Council may grant or deny the application or refer it to the appropriate City department for further investigation and review. In any event, the Council shall grant or deny the application on or before the second regular Council meeting following its initial presentation to the Council. After due consideration of the application, the Council shall either grant the application and order the Clerk to issue the license or deny the application and return the license fee with a notice of rejection to the applicant. The Council may deny the application upon finding that the applicant does not meet any of the qualifications of this Title, that applicant's conduct of business will contravene any provision of the City's Building Code, Fire Code, Zoning Ordinance, or any other applicable regulation, ordinance or statute of the City, Bonneville County, State of Idaho or the United States, that the applicant has been convicted of a felony, or that the applicant has engaged in any fraudulent, deceptive or unlawful business practices within ten (10) years prior to the date of his or her application for a business license. (Ord. 3003, 04-23-15)

4-1-7: LICENSE NONTRANSFERABLE: Except as specifically provided by this Code or State law, licenses issued by the City shall not be assigned or transferred to any person other than the named holder. Issuance of a license by the City shall not authorize any person other than the person or entity named thereon to conduct such business; nor shall it authorize any business other than that named to be done or transacted. Issuance of a license shall not permit the named business to be conducted in any place other than the location or locations described in the application without prior approval of the Council. All licenses shall state the location of the business upon the face thereof.

4-1-8: SEPARATE LICENSES REQUIRED: A separate license and license fee shall be required for each business subject to the provisions of this Title, regardless of whether two (2) or more businesses are conducted or operated by the same person or entity or whether two (2) or more businesses are conducted within the same building or at the same location.

4-1-9: REVOCATION OF LICENSES: The Council may revoke any license issued under this Title at any time if the licensee does not comply with the applicable provisions of this Title or for other just cause. Before revoking any license, the City Clerk shall give written notice to the license holder of such proposed action at least ten (10) days prior to the date such proposed action is submitted to the Council. The license holder shall be given an opportunity to appear before the Council and show cause why his or her license should not be revoked.

4-1-10: DISPLAY OF LICENSE: All licensees shall post their licenses in a place conspicuous to the public in each business location and shall produce the license whenever required by any officer or other person having the authority to examine it. If an applicant desires to conduct business in more than one location, the Clerk may issue duplicate originals of the license for display in each place of business.

4-1-11: EXPIRATION DATE: No license shall be granted for a period greater than one year, and all licenses shall expire on December 31 of the calendar year for which they are issued, unless another expiration date is endorsed on the license by the Clerk.
CHAPTER 2
LIQUOR BY THE DRINK

SECTION:

4-2-1: Definitions
4-2-2: License Required
4-2-3: License Fee
4-2-4: Application for License
4-2-5: Investigation
4-2-6: Form of License; Display
4-2-7: Expiration of Licenses
4-2-8: Multiple Licenses Prohibited
4-2-9: Transfer of Licenses
4-2-10: Persons Not Qualified to be Licensed
4-2-11: Sanitary Requirements
4-2-12: Location Restrictions
4-2-13: Bartender's Identification Required
4-2-14: Right of Entry
4-2-15: Hours of Sale
4-2-16: Restriction on Sales by Licensee
4-2-17: Sales to Disqualified Persons Under Age 21
4-2-18: Liquor Catering Permit
4-2-19: Application for Liquor Catering Permit
4-2-20: Persons Under Specified Ages Prohibited to Be At Licensed Places
4-2-21: Exceptions
4-2-22: Possession of Open Containers Prohibited
4-2-23: (Repealed)

4-2-1: DEFINITIONS: Certain words and phrases used in this Chapter are defined as follows:

BARTENDER: Any person, whether agent, servant, employee, or person acting in any other capacity, who pours, mixes, or prepares any liquor by the drink upon any licensed premises. This shall not apply to any person who solely pours, mixes or prepares wine or beer by the drink at retail as defined by this Code.

DIRECTOR: The Director of the Idaho Department of Law Enforcement.

INTERDICITED PERSON: A person to whom the sale of liquor is prohibited under the laws of the State.

LICENSE: A license issued by the City to a qualified person, under which it shall be lawful for the licensee to sell and dispense liquor by the drink at retail.

LICENSEE: The person to whom a license to sell and dispense liquor by the drink is issued under the provisions of this Chapter.

LIQUOR: Any kind of liquor which may be sold by a State liquor store.
PREMISES: The building, room, or place in which the sale of liquor by the drink at retail by a licensee is authorized under the relevant provisions of the Idaho Code and under this Chapter.

RESTAURANT: An eating establishment which offers prepared food for sale to the public.

(Ord. 3236, 01/31/19)

4-2-2: LICENSE REQUIRED: No person shall sell or dispense liquor by the drink at retail on any premises in the City without first obtaining licenses as required by this Chapter, applicable Bonneville County ordinances, and the relevant provisions of the Idaho Code. (Ord. 3236, 01-31-19)

4-2-3: LICENSE FEE: Each licensee shall pay in advance an annual license fee in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-2014)

4-2-4: APPLICATION FOR LICENSE:

(A) Each applicant for a license shall file with the Clerk an application in writing, verified under oath, stating the following:

(1) That the applicant lawfully holds a current, valid license issued by the County Commissioners of Bonneville County, Idaho and a current, valid license issued by the State pursuant to Idaho Code.

(2) That the applicant complies with the applicable Bonneville County liquor license ordinances.

(3) A description of the premises for which the license is sought, their location and the name of the owner of the premises.

(4) The names and addresses of all persons who will have any ownership or equity interest in any business to be carried on in the licensed premises, including without limitation interests arising from conditional sales contracts, partnerships, trusts or shares of corporate stock and the amount and nature of such interest.

(5) The names and addresses of the applicant and all members of a partnership or association and all officers, members of the governing board and all stockholders of any corporation or any entity identified pursuant to this Section.

(6) Any other information reasonably necessary for the Clerk to determine the applicant's qualifications or disqualifications for a license.
(B) If, during the term of any license issued under this Chapter, any change takes place in any of the information stated in the application, the licensee shall deliver a verified report of the change to the Clerk no later than seven (7) business days following the change.

(C) The names and addresses of the applicant and all members of a partnership or association and all officers, members of the governing board and all stockholders of any corporation or any entity identified pursuant to Subsection (A).

(D) Any other information reasonably necessary for the Clerk to determine the applicant's qualifications or disqualifications for a license.

If during the term of any license issued under this Chapter any change shall take place in any of the information stated in the application, the licensee shall deliver a verified report of the change to the Clerk no later than seven (7) business days following the change.

Ord. 2440, 2-15-02; Ord. 2545, 4-12-04; Ord. 3236, 01-31-19)

4-2-5: INVESTIGATION: Upon receipt of an application for a license or for a transfer of a license under this Chapter, accompanied by the necessary license or transfer fee, the Clerk and Chief of Police shall investigate all information stated in the application and report the results of the investigation to the Clerk. If the Clerk determines that the contents of the application are true, that the applicant is qualified to receive a license, that the premises are suitable for carrying on the intended business and that the requirements of this Chapter have been met, a license shall be issued or transferred by the Clerk. Otherwise, the application shall be denied and the license or transfer fee refunded. (Ord. 3236, 01-31-19)

4-2-6: FORM OF LICENSE; DISPLAY: Every license issued under this Chapter shall state the name of the person or business entity to whom issued and the location by street and number or other definite designation of the premises. If issued to a partnership, the names of the persons constituting the partnership shall be stated. If issued to a corporation or association, the names of the principal officers and the members of the governing board shall be stated. The license shall be signed by the licensee and shall be posted on the licensed premises in a place conspicuous to the public. No person except the named licensee shall exercise any of the privileges granted under the license. A License issued under this Chapter apply only to premises for which it has been issued. (Ord. 3236, 01-31-19)

4-2-7: EXPIRATION OF LICENSES: Every license issued pursuant to this Chapter shall expire at midnight on September 30 of the calendar year for which it is issued. (Ord. 3236, 01-31-19)

4-2-8: MULTIPLE LICENSES PROHIBITED: No person shall be granted more than one license in any calendar year. No partnership, association or corporation holding a license under this Chapter shall have as a member, officer or stockholder any person who has financial interest of any kind in, or is a member of, another partnership or association or an officer or shareholder of another corporation holding a license under this Chapter.

4-2-9: TRANSFER OF LICENSES: No license may be transferred to another person, unless the transferee first obtains approval of the Clerk, upon application containing substantially the same information as required for an application for an initial liquor by the drink license. If the proposed
transferee is qualified for the license, the Council shall approve the transfer and the Clerk shall reissue the license in the name of the transferee. The fee for each license transfer shall be in an amount set from time to time by Resolution of the Council. The fee shall accompany the application for transfer.

(Ord. 2964, 8-14-2014; Ord. 3236, 01-31-19)

4-2-10: PERSONS NOT QUALIFIED TO BE LICENSED: No license shall be issued or transferred to:

(A) Any person, or any partnership, corporation, trust, association or other legal entity, at least one of whose members, officers or governing board, within three years prior to the date of making application, has been convicted of any violation of the laws of the United States, the State of Idaho or any other state of the United States relating to the importation, transportation, manufacture or sale of liquor; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment, or completed any sentence of confinement for, any felony within five (5) years prior to the date of making application for a license.

(B) A person who is engaged in the operation, or interested therein, of any house or place for the purpose of prostitution or who has been convicted of any crime or misdemeanor opposed to decency and morality.

(C) A person whose license issued under this Chapter has been revoked; an individual who was a member of a partnership or association which was a licensee under this Chapter and whose license has been revoked; an individual who was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this Chapter and whose license has been revoked; a partnership or association one (1) of whose members was a licensee under this Chapter and whose license was revoked; a corporation one (1) of whose principal stockholders was a licensee under this Chapter and whose license has been revoked; an association or partnership, one (1) of whose members was a member of a partnership or association licensed under the provisions of this Chapter and whose license has been revoked; a partnership or association, one (1) of whose members was an officer, member of the governing board or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this Chapter and whose license has been revoked; a corporation, one (1) of whose officers, members of the governing board, or ten (10) principal stockholders was a member of a partnership or association licensed under this Chapter and whose license has been revoked; a corporation, one (1) of whose officers, members of the governing board, or ten (10) principal stockholders was an officer, member of the governing board, or one (1) of the ten (10) principal stockholders of a corporation which was a licensee under this Chapter and whose license has been revoked.

(D) Any officer or employee of the State of Idaho or of any of its counties or municipalities.

(E) Any officer, agent or employee of any distillery, winery, brewery, or any wholesaler or jobber of liquor or malt beverages, except as provided by Section 23-912, Idaho Code.

(F) A person who does not hold a retail beer license issued by the State.
Any license, held by any person who later becomes disqualified under the provisions of this Section, shall be promptly revoked by the Clerk. (Ord. 2545, 4-12-04; Ord. 2646, 5-25-06; Ord. 3236, 01-31-19)

4-2-11: SANITARY REQUIREMENTS: All licensed premises shall be maintained in a sanitary condition according to the applicable laws of the State and ordinances of the City.

4-2-12: LOCATION RESTRICTIONS:

(A) No license shall be issued for any premises in any residential zone or within three hundred (300) feet of any public school, church or any other place of worship measured in a straight line between the nearest property line of such public building or place of worship and the nearest entrance to the licensed premises. This limitation shall not apply to any duly licensed premises that at the time of first licensing did not come within the restricted area but subsequent to first licensing came therein.

(B) No license shall be issued to any person for the operation of a licensed business upon any premises which were used by any occupant whose license under this Chapter was revoked within one (1) year prior to the date of the new application for issuance or transfer of a license.

(C) The Council may for good cause shown grant a variance to the provisions of Section (A) or (B). Prior to granting such variance, the Council shall hold a public hearing after giving written notice to the owners or occupants of all properties located within three hundred (300) feet of the exterior boundaries of the proposed licensed premises, measured in the manner set forth above. Such notice shall be given at least fifteen (15) days prior to the date of the hearing. Notice shall be deemed to have been given upon its personal delivery to such owner or occupant or upon its deposit in the United States mail, addressed to the owner at the address last shown on the Bonneville County property tax rolls. (Ord. 2385, 8-10-00; Ord. 3236, 01-31-19)

4-2-13: BARTENDER'S IDENTIFICATION REQUIRED: No person shall act as a bartender in any premises licensed within the City to sell liquor by the drink unless that person holds a valid State of Idaho Driver's License or State of Idaho Identification Card. Any person acting as a bartender must have their valid State of Idaho Driver's License or State of Idaho Identification Card in their possession at all times when they are tending bar. (Ord. 2545, 4-12-04)

4-2-14: RIGHT OF ENTRY: Any duly authorized police officer shall have the right at any time to enter and examine the premises of any licensee to ascertain compliance with the laws of the State and the City. It shall be unlawful to refuse any police officer admittance to the premises for such purpose. (Ord. 2545, 4-12-04)

4-2-15: HOURS OF SALE: No liquor shall be sold, offered for sale or given away upon any licensed premises during the following hours:

(A) Between one o'clock (1:00) a.m. on Christmas and ten o'clock (10:00) a.m., of the following day.

(B) Between one o'clock (1:00) a.m. and ten o'clock (10:00) a.m. of any day. (Ord. 2385, 8-10-00; Ord. 2545, 4-12-04; Ord. 2820, 8-27-09; Ord. 2847, 10-14-10)
4-2-16:  **RESTRICTION ON SALES BY LICENSEE:** No licensee or its employed agents, servants or bartenders shall sell, deliver or give away, or cause or permit to be sold, delivered, or given away, any liquor to:

   (A) Any person under the age of twenty-one (21) years, proof of which, for every resident of this State, shall be a valid driver's license, military identification card or an identification card issued by the Idaho Department of Transportation.

   (B) Any person actually or obviously intoxicated.

   (C) A habitual drunkard.

   (D) An interdicted person.

(Ord. 2545, 4-12-04)

4-2-17:  **SALES TO DISQUALIFIED PERSONS UNDER AGE 21:**

   (A) Any person under the age of twenty-one (21) years who shall purchase, attempt to purchase, possess, serve, dispense, or consume alcohol shall be guilty of a misdemeanor provided, however, that any persons who are nineteen (19) years of age or older may sell, serve, possess and dispense alcohol in the course of their employment in any place, as defined by the Idaho Code, or other place where alcohol is lawfully present so long as such place is the place of employment for such person under twenty-one (21) years of age. No person under twenty-one (21) years of age may serve alcoholic beverages in an establishment that sells liquor by the drink or beer or wine to be consumed on the premises, unless that establishment is also a bona fide restaurant.

   (B) Any person who knowingly misrepresents his or her age or qualifications for the purpose of obtaining liquor from a licensee shall be guilty of a misdemeanor.

   (C) No person shall represent to any licensee, to any agent or employee of a licensee, or to any bartender that any other person is twenty-one (21) years or more of age, when in fact the other person is under the age of twenty-one (21) years, for the purpose of inducing such licensee, or the licensee's agent or employee, or a bartender to sell, deliver or give away any liquor to such other person.

   (D) No person shall purchase liquor for the purpose of delivering the same to any person under the age of twenty-one (21) years, nor shall such person sell, give away or deliver liquor to any person under the age of twenty-one (21) years.

   (E) It is unlawful for an employer to knowingly employ a person in violation of this Chapter. It shall be unlawful for any person to conspire with, or abet any person to violate any provision of this Chapter. (Ord. 2545, 4-12-04)

4-2-18:  **LIQUOR CATERING PERMIT:** Any person holding a retail liquor license may serve and sell liquor, retail by the drink at a party or convention at a location other than at the licensed premises for a period not to exceed three (3) consecutive days, upon obtaining a liquor catering permit.
Applications for such permit shall be made to the Clerk on such form as prescribed by the Clerk, which form shall contain the following information:

(A) The name and address of the applicant and the number of his state liquor license.

(B) The dates and hours during which the permit is to be effective, not to exceed three (3) consecutive days.

(C) The names and addresses of the organizations, groups, or persons sponsoring the event.

(D) The address at which the liquor is to be served, and if a public building, the rooms in which the liquor is to be served.

The application shall be verified by the applicant and filed with the Clerk. A filing fee in an amount set from time to time by Resolution of the Council for each day the permit is to be effective shall be paid to the Clerk. Such fee shall be nonrefundable irrespective of whether the party or convention is held. (Ord. 2964, 8-14-2014; Ord. 3236, 01-31-19)

4-2-19: APPROVAL OF LIQUOR CATERING PERMIT: Upon the filing of an application for a liquor catering permit, the Council shall upon the advice and recommendation of the Chief of Police approve or disapprove the application and indicate the determination on the face of the application by endorsement signed by the Clerk. Copies of the application with signed endorsements thereon shall be mailed or delivered immediately to the Chief of Police, the Director of the Idaho Department of Law Enforcement and the applicant, and a signed copy shall be retained by the Clerk. An application approved in this manner shall constitute a permit, unless disapproved by the Director by notice served upon the applicant for the retail sale of liquor by the drink, beer and wine for the period authorized by the permit. (Ord. 2545, 4-12-04)

4-2-20: PERSONS UNDER SPECIFIED AGES PROHIBITED TO BE AT LICENSED PLACES: No person under the age of twenty-one (21) years shall enter, remain in or loiter in or about any premises licensed for the sale of liquor by the drink at retail, or sale of beer for consumption on the premises, nor shall any licensee of either such place, or any person in charge of a licensed premises or on duty while employed by the licensee therein, permit or allow any person under such age to remain in or loiter in or about such place. Provided, however, it is lawful for persons who are musicians and singers eighteen (18) years of age or older, to enter and to remain in any place, as defined by the Idaho Code, but only during and in the course of their employment as musicians and singers. Provided further, that it is lawful for persons who are nineteen (19) years of age or older to sell, serve, possess or dispense liquor, beer or wine in the course of their employment in any place as defined by the Idaho Code, or in any other place where liquor, beer or wine are lawfully present, so long as such place is the place of employment for such person. However, the foregoing shall not permit the sale or distribution of any alcoholic beverages to any person under the ages specified for sale of alcoholic beverages. (Ord. 2545, 4-12-04; Ord. 3236, 01-31-19)

4-2-21: EXCEPTIONS: Notwithstanding the preceding section, any person under the age of twenty-one (21) years may enter or be upon or within:

(A) Any railroad observation or club car or any airplane of a commercial airline, notwithstanding that such premises may also be licensed for the sale of liquor by the drink or for the
sale of beer for consumption on the premises or that alcoholic beverages, or beer, or both, are prepared, mixed or dispensed and served and consumed therein.

(B) Any building, a part or portions of which are used as a licensed premises, provided such premises are separate or partitioned from the remainder of said building and access to such place through a doorway or doorways or other means of ingress can be controlled to prevent persons under twenty-one (21) years of age from entering therein.

(C) Any baseball park, sports arena or fairgrounds, notwithstanding that such premises or any portion thereof may be licensed for the sale of beer for consumption on the premises or that beer is dispensed and served and consumed therein.

(D) The premises of any licensed winery notwithstanding that such premise or any portion thereof may also be licensed for the sale of beer or wine for consumption on the premises or that wine is dispensed and served and consumed therein.

(E) The licensed premises of a wine retailer, wholly owned and operated by a licensed winery which retails exclusively the products of that winery. (Ord. 2545, 4-12-04)

4-2-22: POSSESSION OF OPEN CONTAINERS PROHIBITED:

(A) Any person who is in possession of an open container of liquor within the geographic limits of the City shall be guilty of a misdemeanor.

(B) Notwithstanding the foregoing, nothing herein shall prohibit the possession of an open container of liquor:

1. Within a fully enclosed, privately-owned building or upon a private parking lot adjacent or appurtenant to such building provided such parking lot is located more than two hundred (200) feet away from the premises of any licensed liquor vendor. Such distance shall be measured at the shortest distance between the exterior boundaries of such parking lot and licensed premises.

2. Within any private residence or upon the yard thereabout, or within any apartment, duplex, condominium, boarding house or other structure lawfully used as a permanent residence, or within any common area or area designated exclusively for and appurtenant to such residential occupancy.

3. Within any area for which a liquor catering permit has been lawfully issued under the provisions of this Chapter.

4. Within any area included within or being a part of the premises at which a licensee is authorized to sell or dispense liquor by the drink under the provisions of this Chapter.
(5) Within an area directly adjacent to a restaurant, at tables provided for dining, between the hours of 10:00 a.m. and 11:00 p.m. local time. A restaurant must also have the appropriate license to sell the type of alcohol they offer to the public, including an approved site plan as part of its State alcohol permit. If the adjacent area includes a public sidewalk, the size of the tables and seating must allow sufficient room for public ingress and egress, including being compliant with all ADA laws and regulations for sidewalk use under this Code. All consumption of alcohol in this adjacent area must be done at the table, and the customer cannot carry the alcohol away from the table.

(Ord. 2262, 1-8-98; Ord. 2481, 2-28-03; Ord. 2545, 4-12-04; 2916, 03-28-13; Ord. 3236, 01-31-19)

4-2-23: (Repealed): (Ord. 2385, 8-10-00; Ord. 2447, 5-9-02; Ord. 2545, 4-12-04; Ord. 2804, 3-12-09)
CHAPTER 3
BEER

SECTION:

4-3-1: Definitions
4-3-2: License Required
4-3-3: License Fees
4-3-4: Application for License
4-3-5: Prohibited Licenses
4-3-6: License for Designated Address Only
4-3-7: Location Restrictions
4-3-8: Posting of License
4-3-9: Transfer of License; Transfer Fee
4-3-10: Right of Entry
4-3-11: Sale to Minors Prohibited
4-3-11A: Dispensing to Intoxicated Person
4-3-12: Conduct of Business
4-3-13: Covering Windows on Street Levels Unlawful
4-3-14: Hours of Sale - Retail Sales
4-3-15: Hours of Sale - By The Drink
4-3-16: Beer Sold or Donated for Benevolent, Charitable or Public Purposes - Permit Required
4-3-17: Possession of Open Containers Prohibited
4-3-18: Expiration of License

4-3-1: DEFINITIONS: Certain words and phrases used in this Chapter are defined as follows:

DIRECTOR: The Director of the Idaho Department of Law Enforcement.

BEER: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt and/or other ingredients in drinkable water and which contains not more than four percent (4%) alcohol by weight.

DISTRIBUTOR: A person who is employed by or is an agent of a retailer to sell, serve or dispense beer.

LICENSE: A license issued by the City authorizing a licensee to sell beer at retail.

LICENSEE: A qualified person, including a retailer, to whom a license for the retail sale of beer is issued pursuant to this Chapter.

PREMISES: The building, room or place in which the retail sale of beer by a licensee is authorized under this Chapter.

RESTAURANT: An eating establishment which offers prepared food for sale to the public.
(Ord. 2148, 8-4-94; Ord. 2492, 6-12-03; Ord. 3236, 01-31-19)
4-3-2: LICENSE REQUIRED: Except as otherwise provided in this Chapter, no person shall sell or dispense beer at retail within the City without first obtaining a license from the City as required by this Chapter.

4-3-3: LICENSE FEES: An annual license fee for the retail sale of beer for consumption on or off the premises and an annual license fee for retail sale of bottled or canned beer for consumption only off the premises shall be in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-2014)

4-3-4: APPLICATION FOR LICENSE:

(A) Each applicant for a license for the retail sale of beer shall file with the City Clerk a written application that states the following:

1. The name and residential address of the applicant.
2. The street address of the premises where beer is to be sold.
3. The name of the owner of the premises for which the license is sought.
4. That the applicant, if an individual, is at least nineteen (19) years old.
5. That the applicant has not been convicted of a felony or any crime involving moral turpitude.
6. The names and addresses of four (4) references as to the good moral character of the applicant.
7. That the applicant holds a current, valid license for the retail sale of beer, issued by the County Commissioners of Bonneville County, Idaho, and a current, valid license for the retail sale of beer issued from the State pursuant to the Idaho Code.
8. That the applicant agrees to abide by the terms and conditions of this Chapter, and any laws, ordinances, rules or regulations subsequently promulgated by the State, Bonneville County or the City regarding the retail sale of beer licensing within the City.
9. Any other information the Clerk requires to determine that the applicant possesses the qualifications and has none of the disqualifications for a license, as provided in this Chapter and the Idaho Code.

(B) On receipt of a written application conforming with subsection (A) of this Section and payment of the license fee, the Clerk shall immediately forward the application to the Chief of Police for review, investigation and recommendation.

1. If the Chief of Police recommends approval of the license and the Clerk finds the applicant otherwise qualified, the Clerk shall grant the application and issue a license.
(2) If the Chief of Police or the Clerk recommends denial of the license application, the Chief or the Clerk shall notify the applicant of the recommendation for denial and state the date, time and place of the Council meeting at which the recommendation will be considered. The notice shall be in writing and shall be mailed to the applicant at the address in the application no later than seven (7) days prior to the date of the Council meeting.

(C) At the date, time and place stated in the recommendation for denial notice, the Council shall consider the application, the recommendation for denial, and hear testimony and evidence from any interested person. No license application shall be denied unless the written notice required by subsection (B) of this Section has been given and the applicant has been given an opportunity to testify and present evidence in support of the issuance of the license. All applications for a retail beer license or any transfer or renewal of a retail beer license shall be granted or denied within sixty (60) days from the date the application was delivered to the Clerk.

(D) If the Council denies an application for a retail beer license, or any renewal or transfer of a retail beer license, the Council shall specify in writing:

1. The statutes, ordinances and standards used in evaluating the application;
2. The reasons for denial; and
3. The actions, if any, the applicant could take to obtain the license, transfer or renewal.

(E) The Clerk shall keep a transcribable verbatim record of all proceedings concerning applications for beer licenses, or their transfer, renewal or revocation, pursuant to the provisions of this Chapter. If an application for a license, transfer or renewal is denied, or if a license is revoked, the transcribable verbatim record shall be kept for a period of not less than six (6) months after a final decision. Upon request and within the time provided for retention of the record, persons may have the record transcribed at their expense (Ord. 2565, 11-9-04; Ord. 3236, 01-31-19).

4-3-5: **PROHIBITED LICENSES**: No license for retail sale of beer shall be issued to any person holding a wholesaler's or manufacturer's license issued by the State.

4-3-6: **LICENSE FOR DESIGNATED ADDRESS ONLY**: A license for the retail sale of beer shall be granted only for the place designated in the application. The place of business shall not be changed or moved without the consent the Council.

4-3-7: **LOCATION RESTRICTIONS**:

(A) No license shall be issued for any premises that is within three hundred (300) feet of any public school, church, or any other place of worship. Such distance shall be measured in a straight line between the nearest entrance to the licensed premises and the nearest property line of such school, church or place of worship.
(B) No person shall sell or dispense beer for consumption on the premises at any place within three hundred feet (300') of any public school, church or other place of worship, measured in a straight line between the nearest entrance to such place and the nearest property line of such school, church or place of worship. Notwithstanding the foregoing, nothing herein shall prohibit the sale or dispensing of beer for consumption on the premises at a public school, church or other place of worship pursuant to a permit issued under this Chapter to an applicant which owns or operates such school, church or place of worship.

(C) The provisions of subsections (A) and (B) in this Section shall not apply to any premises that met the qualifications of such subsection at the time the premises were first licensed, but thereafter fail to meet such location restrictions because of the construction or commencement of use of such public facility or place of worship subsequent to such first licensing.

(D) The Council may for good cause grant a variance to the provisions of Sections (A) or (B) above. Prior to granting such variance, the Council shall hold a public hearing after giving written notice to the owners or occupants of all properties located within three hundred (300) feet of the exterior boundaries of the proposed licensed premises, measured in the manner set forth above. Such notice shall be given at least fifteen (15) days prior to the date of the hearing. Notice shall be deemed to have been given upon its personal delivery to such owner or occupant or upon its deposit in the United States mail, addressed to the owner at the address last shown on the Bonneville County property tax rolls.

(Ord. 2385, 8-10-00; Ord. 2866, 3-10-11; Ord. 3236, 01-31-19)

4-3-8: POSTING OF LICENSE: All licenses for the sale of beer shall be posted in a place conspicuous to the public at the licensed premises at all times when the premises are open for business.

4-3-9: TRANSFER OF LICENSE; TRANSFER FEE: A license may be transferred to another person if the transferee competes an application for an initial license to sell beer at retail. If a transferee has all of the qualifications and none of the disqualifications for a license to sell beer at retail, the Clerk shall approve the transfer and re-issue the license in the name of the transferee. The fee to transfer a license for the retail sale of beer for consumption on or off the premises, and a license for the retail sale of bottled or canned beer only for consumption off the premises shall be in an amount set from time to time by Resolution of the Council. The license for the transferring license shall be surrendered to the Clerk before such transfer may be made. (Ord. 2964, 8-14-2014; Ord. 3236, 01-31-19)

4-3-10: RIGHT OF ENTRY: Any police officer shall have the right at any time to enter and examine the premises of any licensee or of any place where beer is sold at retail to ascertain the alcoholic content of any beer kept for sale on the premises or to ascertain compliance with the laws of the State and the City. It shall be unlawful to refuse any police officer admittance to the premises for such purposes.

4-3-11: SALE TO MINORS PROHIBITED:

(A) No person under twenty-one (21) years of age shall sell, purchase, possess or consume any beer. This restriction shall not apply to persons at least nineteen (19) years old who sell, dispense, deliver or possess beer in the course of their employment by a licensee under this Title.
(B) No person shall give, sell or deliver beer to any person under the age of twenty-one (21).

(C) No person under the age of twenty-one (21) shall represent to any retailer or distributor or to any agent or employee of a retailer or distributor that he or she is twenty-one (21) years or more of age, when in fact he or she is under the age of twenty-one (21) years, for the purpose of inducing the retailer or distributor, or his agent or employee, to sell, serve or dispense beer to such person.

(D) No person shall represent to any retailer or distributor or to any agent or employee of a retailer or distributor that any other person is twenty-one (21) years or more of age, when in fact the other person is under the age of twenty-one (21) years, for the purpose of inducing the retailer or distributor, or his agent or employee, to sell, serve or dispense beer to such other person.

4-3-11(A): DISPENSING TO INTOXICATED PERSON: Any person who (1) sells, gives, or dispenses any beer to another person who is intoxicated or apparently intoxicated, or (2) who allows such sale or delivery to be made by any employee or agent under his or her control, shall be guilty of a misdemeanor and shall be subject to suspension of any license issued under Chapters two through four inclusive of this Title. (Ord. 2846, 10-14-10)

4-3-12: CONDUCT OF BUSINESS: Every person licensed under this Title to sell beer at retail shall at all times conduct a quiet and well-lighted, orderly place of business.

4-3-13: COVERING WINDOWS ON STREET LEVELS UNLAWFUL: Street level windows adjacent to any public street in premises owned or controlled by any person licensed under this Title to sell beer at retail shall not be covered by curtains, paint or any substance that obscures or tends to obscure the view into the premises from the street. (Ord. 2385, 8-10-00; Ord. 2447, 5-9-02; Ord. 2804, 3-12-09; Ord. 2818, 7-23-09)

4-3-14: HOURS OF SALE - RETAIL SALES: It shall be unlawful for any person in any place licensed to sell beer for consumption off the premises, to sell or dispense beer or to permit the consumption of beer on the premises between 2:00 a.m. and 7:00 a.m. of any day. (Ord. 3134, 9-14-2017).

4-3-15: HOURS OF SALE - BY THE DRINK:

(A) It shall be unlawful for any person in any place licensed to sell beer for consumption on the premises, whether for pleasure or profit, to sell, offer to sell or dispense beer for consumption on the premises or to permit the consumption of beer on the premises between 2:00 a.m. and 7:00 a.m. of any day.

(Ord. 2385, 8-10-00; Ord. 2818, 7-23-09; Ord. 2847, 10-14-10; Ord. 3134, 9-14-2017).

4-3-16 BEER SOLD OR DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES - PERMIT REQUIRED:
(A) Notwithstanding the provisions of Section 4-3-2 of this Chapter, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of beer or kegs of beer to a person which has not been issued any license for the sale of alcoholic beverages in this state, for benevolent, charitable or public purposes if a permit has been issued to the person or nonprofit entity as provided in subsection (B) of this Section.

(B) Upon delivery to the Clerk of a properly completed application in accordance with the provisions of this Chapter and following receipt of an affirmative recommendation from the Chief of Police, the Clerk may issue to a Qualified Organization a permit authorizing the sale or dispensing of beer at an event sponsored by such qualified organization if the Clerk is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose.

(C) Any permit issued to an applicant who desires to conduct a charitable event within the City shall be subject to the following conditions:

(1) Except as otherwise provided in subsections (2) and (3) of this section, all events shall be conducted within a confined area constructed and operated in accordance with the terms and provisions of this subsection. The applicant shall designate in his or her application an area not to exceed one thousand two hundred fifty (1,250) square feet in which all beer will be sold, dispensed, possessed and consumed. Such area shall be completely surrounded by a fence, barricade, or other physical barrier to pedestrian traffic, except for one (1) opening not to exceed six (6) feet in width. Such defined premises shall be at such location as may be approved by the Chief of Police or his or her designee, which location shall be specified on the permit. Such defined area shall be considered to be the "premises" for the purposes of this Chapter and the applicant shall not sell or dispense beer outside such area. The applicant shall also erect and maintain in a conspicuous location at all times, a sign with large letters no less than two (2) inches high bearing the following legend: "No Open Container of Beer May Be Possessed or Transported Beyond the Fenced Area," or such other legend which adequately apprises customers of the prohibitions set forth in this Chapter. Beer shall not be sold, conveyed or dispensed between the hours of 9:00 o'clock p.m. and 10:00 o'clock a.m. of the following day. Failure to construct or maintain such fence, barrier or sign, or failure to comply with such hours of operation, shall be grounds for summary revocation of such permit. The Chief of Police or the Clerk may establish additional conditions or restrictions as reasonably necessary to protect the public health and safety, or alternatively may waive or modify the conditions and restrictions herein provided such waiver or modification does not jeopardize the public health and safety.

(2) Charitable events may, with the prior approval of the Chief of Police, be conducted in or upon a public street, subject to the terms and conditions of this subsection. Beer may be dispensed at an event conducted in a public street and within an area comprised of no more than one (1) street on one (1) side of a City block, excluding any intersections thereof, provided it is dispensed only between the hours of 5:00 o'clock p.m. and 9:00 o'clock p.m. on any permitted day of the
week. Beer shall not be sold on Sundays or legal holidays at such events. Such street area shall be considered to be the "premises" for the purposes of this Chapter and the applicant shall not sell or dispense beer outside such area. The applicant shall also erect and maintain at all times in a conspicuous location at each end of such street area, a sign with large letters no less than two (2) inches high bearing the following legend: "No Open Container of Beer May Be Possessed or Transported Beyond this Point" or such other legend which adequately apprises customers of the prohibitions set forth in this Chapter. Failure to construct or maintain such fence, barrier or sign shall be grounds for summary revocation of such permit.

(3) Charitable events may be conducted within the confines of (a) the public plaza located at the corner of Park and B Street, or (b) the Tautphaus Park Zoo, which plaza or Zoo shall be considered to be the "premises" for the purpose of of this Code and the applicant shall not sell or dispense beer outside such area. The applicant shall also erect and maintain in a conspicuous location within such plaza or Zoo at least two (2) signs with large letters no less than two inches (2") high bearing an appropriate legend which adequately apprises the customer of the prohibitions set forth in this Chapter. Failure to construct or maintain such sign shall be grounds for summary revocation of such permit. For the purposes hereof, the term "Zoo" shall consist of that area bounded by the perimeter fence of the Idaho Falls Tautphaus Park Zoo, but in no event closer than thirty (30) feet measured perpendicularly to such fence. Events conducted within the Zoo shall be subject to the further condition that all net proceeds derived from such event shall be used for the benefit of or donated to the Tautphaus Park Zoo.

(D) Permits issued under the subsections above, shall not exceed a period of greater than three (3) consecutive days. No Qualified Organization shall conduct more than two (2) events within the Green in any calendar year. Nothing herein shall authorize or allow the issuance of any permit to sell or dispense beer in any park in violation of this Code.

(E) The form of the application shall require the following information:

(1) The names, mailing addresses and telephone numbers of the sponsors of the event, the tax identification number of the sponsor or sponsors and satisfactory evidence that the sponsor is a Qualified Organization;

(2) Quantities and types of beer products to be used at the event;

(3) Names of the dealer or wholesaler from whom the beer is to be received;

(4) The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense beer on behalf of the permittee;

(5) Dates and hours of operation for which the permit is desired.
(6) The location of the event and a description of the premises where beer will be sold, dispensed or conveyed;

(7) Such other information directly related to the event and the applicant that the Clerk or Chief of Police may require.

(F) For the purposes hereof, a "Qualified Organization" shall mean any benevolent, charitable or public organization or person to whom a permit has been issued by the Director of the Idaho Department of Law Enforcement pursuant to the provisions of the Idaho Code.

(G) Within ninety (90) days after the conclusion of the event, the permittee shall submit an accurate and complete report to the Clerk showing the disposition of funds from the event in accordance with the provisions of this Chapter.

(H) The Clerk shall collect a fee in an amount set from time to time by Resolution of the Council for each permit issued, provided however permits issued for benevolent, charitable, or public purposes may be issued for multiple events conducted within a calendar year, provided that such events are separated by a period of at least six (6) days. Such multiple event permit fee shall be in an amount as set from time to time by Resolution of the Council. In the event an applicant seeks a permit to sell beer and wine at the same location, the combined permit fee shall be in an amount set from time to time by Resolution of the Council.

(I) Should the Chief of Police or Clerk determine that an applicant, permittee or its representative is violating any provision of this Chapter, or has in the past violated any law pertaining to the dispensing or sale of beer by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in the Idaho Code or under this Chapter, or has failed in the past to submit such information as may have been requested by the Clerk such permit may be summarily suspended by the Chief of Police prior to hearing, or may be denied or canceled pending a hearing.

(J) A licensed retailer may, on behalf of the permittee, receive or store beer to be used at the event and may dispense such beer to attendees of the benevolent, charitable or public purpose event for which the permit was issued. (Ord. 2262, 1-8-98, Ord. 2481, 2-28-03; Ord. 2492, 6-12-03; Ord. 2650, 6-08-06; Ord. 2809, 4-23-09; Ord. 2836, 4-22-10; Ord. 2866, 3-10-11; Ord. 2964, 8-14-2014; Ord. 3236, 01-31-19)

4-3-17:POSSESSION OF OPEN CONTAINERS PROHIBITED:

(A) Any person who is in possession of an open container of beer within the City of Idaho Falls shall be guilty of a misdemeanor.

(B) Notwithstanding the foregoing, nothing herein shall prohibit the possession of an open container of beer:

(1) Within a fully enclosed, privately-owned building or upon a private parking lot adjacent or appurtenant to such building provided such parking lot is located more than two hundred (200) feet away from the
premises of any licensed liquor vendor. Such distance shall be measured at the shortest distance between the exterior boundaries of such parking lot and licensed premises.

(2) Within any private residence or upon the yard thereabout, or within any apartment, duplex, condominium, boarding house or other structure lawfully used as a permanent residence, or within any common area or area designated exclusively for and appurtenant to such residential occupancy.

(3) Within any area for which a liquor catering permit has been lawfully issued under the provisions of this Chapter.

(4) (4) Within any area included within or being a part of the premises at which a licensee is authorized to sell or dispense beer by the drink under the provisions of this Chapter.

(5) Within any building or upon any premises for which a permit has been issued under the provisions of this Chapter.

(6) Within an area directly adjacent to a restaurant, at tables provided for dining, between the hours of 10:00 a.m. and 11:00 p.m. A restaurant must also have the appropriate license to sell the type of alcohol they offer to the public, including an approved site plan as part of its State alcohol permit. If the adjacent area includes a public sidewalk, the size of the tables and seating must allow sufficient room for public ingress and egress, including being compliant with all ADA laws and regulations for sidewalk use under this Code. All consumption of alcohol in this adjacent area must be done at the table, and the customer cannot carry the alcohol away from the table.

(7) Within a Permitted Event alcohol sales and consumption area.

(Ord. 2262, 1-8-98; Ord. 2481, 2-28-03; Ord. 2900, 05-10-12; Ord. 3044, 10-12-15; Ord. 3236, 01-31-19)

4-3-18: EXPIRATION OF LICENSE:
Licenses issued under this Chapter shall expire at midnight on September 30 of the calendar year for which they are issued. (Ord. 2438, 1-10-02; Ord. 3236, 01-31-19)
CHAPTER 4  
WINE

SECTION:

4-4-1: Definitions
4-4-2: License Required
4-4-3: License Fees
4-4-4: Application for License
4-4-5: Qualifications
4-4-6: Consumption on Premises
4-4-7: Location Restrictions
4-4-8: Posting of License
4-4-9: Transfer of License
4-4-10: Age Restriction on Sale or Purchase
4-4-11: Dispensing to Intoxicated Person
4-4-12: Wine Sold or Donated for Benevolent, Charitable or Public Purposes - Permit Required
4-4-13: Possession of Open Containers Prohibited
4-4-14: Hours of Sale - Retail Sales
4-4-15: Hours of Sale - By The Drink
4-4-16: Expiration

4-4-1: DEFINITIONS: Certain words and phrases used in this Chapter are defined as follows:

DIRECTOR: The director of the Idaho Department of Law Enforcement

DISTRIBUTOR: A person who is employed by or is an agent of, a retailer to sell, serve or dispense wine.

LICENSEE: A qualified person, including a retailer, to whom a license for the retail sale of wine is issued pursuant to this Chapter.

PREMISES: The building, room or place in which the retail sale of wine by a licensee is authorized under this Chapter.

RETAIL WINE LICENSE: A license issued by the Director authorizing a person to sell wine at retail for consumption off the licensed premises. The term also means a license issued by the City authorizing a person to sell wine at retail for consumption off the licensed premises only.

WINE: Any alcoholic beverage containing not more than sixteen percent (16%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

WINE-BY-THE-DRINK: A license to sell wine by the individual glass or open bottle at retail for consumption on the premises.

(Ord. 2492, 6-12-03; Ord. 3236, 01-31-19)
4-4-2: LICENSE REQUIRED: Except as otherwise provided by this Chapter, no person shall sell wine at retail for consumption off the premises or by the individual glass or open bottle for consumption on the premises within the City, without first obtaining a license under this Chapter or a liquor by the drink license issued pursuant to this Code. A person who holds a valid current wine-by-the-drink license issued by the City may sell on the licensed premises wine at retail for consumption off the premises without obtaining a retail wine license from the City. (Ord. 3236, 01-31-19)

4-4-3: LICENSE FEES: The fee for a retail wine license shall be in an amount set from time to time by Resolution of the Council. The fee for a wine-by-the-drink license shall be in an amount set from time to time by Resolution of the Council. License fees shall be paid in advance for each calendar year or any portion of a calendar year without proration. (Ord. 2964, 8-14-2014)

4-4-4: APPLICATION FOR LICENSE:

(A) Each applicant for a retail wine license or wine-by-the-drink license shall file with the Clerk a written application that states the following:

1. The name and residential address of the applicant.

2. The street address of the premises where wine is to be sold.

3. The name of the owner of the premises for which the license is sought.

4. That the applicant, if an individual, is at least nineteen (19) years old.

5. That the applicant has not been convicted of a felony or any crime involving moral turpitude.

6. The names and addresses of four (4) references as to the good moral character of the applicant.

7. That the applicant holds a current, valid license for the retail sale of wine, issued by the County Commissioners of Bonneville County, Idaho, and a current, valid license for the retail sale of wine issued from the State pursuant to the Idaho Code.

8. That the applicant agrees to abide by the terms and conditions of this Chapter, and any laws, ordinances, rules or regulations subsequently promulgated by the State, Bonneville County or the City regarding the retail sale of wine licensing within the City.

9. Any other information the Clerk requires to determine that the applicant possesses the qualifications and has none of the disqualifications for a license, as provided in this Chapter and the Idaho Code.

(B) On receipt of a written application conforming with subsection (A) of this Section and payment of the license fee, the Clerk shall immediately forward the application to the Chief of Police for review, investigation and recommendation.
(1) If the Chief of Police recommends approval of the license and the Clerk finds the applicant otherwise qualified, the Clerk shall grant the application and issue a license.

(2) If the Chief of Police or the Clerk recommends denial of the license application, the Chief or the Clerk shall notify the applicant of the recommendation for denial and state the date, time and place of the next Council meeting at which the recommendation will be considered. The notice shall be in writing and shall be mailed to the applicant at the address in the application no later than seven (7) days prior to the date of the Council meeting.

(C) At the date, time and place stated in the recommendation for denial notice, the Council shall consider the application, the recommendation for denial, and hear testimony and evidence from any interested person. No license application shall be denied unless the written notice required by subsection (B) of this Section has been given and the applicant has been given an opportunity to testify and present evidence in support of the issuance of the license. All applications for a retail wine license or any transfer or renewal of a retail wine license shall be granted or denied within sixty (60) days from the date the application was delivered to the Clerk.

(D) If the Council denies an application for a retail wine license, or any renewal or transfer of a retail wine license, the Council shall specify in writing:

(1) The statutes, ordinances and standards used in evaluating the application;

(2) The reasons for denial; and

(3) The actions, if any, the applicant could take to obtain the license, transfer or renewal.

(E) The Clerk shall keep a transcribable verbatim record of all proceedings concerning applications for wine licenses, or their transfer, renewal or revocation, pursuant to the provisions of this Chapter. If an application for a license, transfer or renewal is denied, or if a license is revoked, the transcribable verbatim record shall be kept for a period of not less than six (6) months after a final decision. Upon request and within the time provided for retention of the record, persons may have the record transcribed at their expense.

(Ord. 2440, 2-15-02; Ord. 3236, 01-31-19)

4-4-5: QUALIFICATIONS: An applicant for a retail wine license or wine-by-the-drink license shall possess all qualifications necessary to obtain a license from the Director. Licensees shall maintain qualifications throughout the period for which their license is issued. Possession of licenses regularly issued by the Director and Bonneville County shall be prima facie evidence of the applicant's qualifications to receive a license under this Chapter.
4-4-6: CONSUMPTION ON PREMISES: Retailers who do not possess a valid City license for the retail sale of liquor by the drink or wine-by-the-drink shall not permit consumption of wine on the licensed premises. (Ord. 3236, 01-31-19)

4-4-7: LOCATION RESTRICTIONS:

(A) No wine-by-the-drink license shall be issued to any person to operate at any place that is within three hundred (300) feet of any public school, church or any other place of worship. Such distance shall be measured in a straight line between the nearest entrance to the licensed premises and the nearest property line of such school, church or place of worship.

(B) No person shall sell or dispense wine for consumption on the premises at any place within three hundred (300) feet of any public school, church or other place of worship, between the nearest entrance to such place and the nearest property line of such school, church or place of worship. Notwithstanding the foregoing, nothing herein shall prohibit the sale or dispensing of wine for consumption on the premises at a public school, church or other place of worship pursuant to a permit issued under this Chapter to an applicant which owns or operates such school, church, or place of worship.

(C) The provisions of subsections (A) and (B) above shall not apply to any premises that met the qualifications of such subsection at the time the premises were first licensed, but thereafter fail to meet such location restrictions because of the construction or commencement of use of such public facility or place of worship subsequent to such first licensing.

(D) The Council may for good cause shown grant a variance to the provisions of this section. Prior to granting such variance, the Council shall hold a public hearing after giving written notice to the owners or occupants of all properties located within three hundred (300) feet of the exterior boundaries of the proposed licensed premises, measured in the manner set forth above. Such notice shall be given at least fifteen days prior to the date of the hearing. Notice shall be deemed to have been given upon its personal delivery to such owner or occupant or upon its deposit in the United States mail, addressed to the owner at the address last shown on the Bonneville County property tax rolls.

(Ord. 2385, 8-10-00; Ord. 2964, 8-14-2014; Ord. 2867, 3-10-11; Ord. 3236, 01-31-19)

4-4-8 POSTING OF LICENSE: All licenses for the sale of wine shall be posted in a place conspicuous to the public at the licensed premises at all times when the premises are open for business.

(Ord. 3236, 01-31-19)

4-4-9 TRANSFER OF LICENSE; TRANSFER FEE: A license may be transferred to another person if the transferee competes an application for an initial license to sell wine at retail. If a transferee has all of the qualifications and none of the disqualifications for a license to sell wine at retail, the Clerk shall approve the transfer and re-issue the license in the name of the transferee. The fee to transfer a license for a transfer of a retail wine license or wine-by-the-drink license shall be in an amount set from time to time by Resolution of the Council. The license for the transferring license shall be surrendered to the Clerk before such transfer may be made.

(Ord. 3236, 01-31-19)

4-4-10 AGE RESTRICTION ON SALE OR PURCHASE:
(A) No person under twenty-one (21) years of age shall sell, purchase, possess or consume any wine provided, however, that any person who is nineteen (19) years of age or older may sell, serve, possess and dispense wine in the course of employment in any place, as defined by the Idaho Code, or other place where wine is lawfully present, so long as such place is the place of employment for such person under twenty-one (21) years of age.

(B) No person shall give, sell or deliver wine to any person under the age of twenty-one (21) years.

(C) No person under the age of twenty-one (21) shall represent to any retailer or distributor that he or she is twenty-one (21) years or more of age, when in fact he or she is under such age for the purpose of inducing the retailer or distributor, to sell, serve or dispense wine to such person.

(D) No person shall represent to any retailer or distributor that any other person is twenty-one (21) years or more of age, when in fact that other person is under such age for the purpose of inducing such retailer or distributor to sell, serve or dispense wine to such other person. (Ord. 2975, 12-11-14; Ord. 3236, 01-31-19)

4-4-11: DISPENSING TO INTOXICATED PERSON: Any person who (1) sells, gives, or dispenses any wine to another person who is intoxicated or apparently intoxicated, or (2) who allows such sale or delivery to be made by any employee or agent under his or her control, shall be guilty of a misdemeanor and shall be subject to suspension of any liquor, beer, or wine license issued under this Code. (Ord. 2846, 10-14-10; Ord. 3236, 01-31-19)

4-4-12: WINE SOLD OR DONATED FOR BENEVOLENT, CHARITABLE OR PUBLIC PURPOSES - PERMIT REQUIRED:

(A) Notwithstanding the provisions of this Chapter, nothing shall prevent any licensed dealer, wholesaler or retailer from selling or donating unbroken packages of wine to a person which has not been issued any license for the sale of alcoholic beverages in this state, for benevolent, charitable or public purposes if a permit has been issued to the person or nonprofit entity as provided in subsection (B) of this Section.

(B) Upon delivery to the Clerk of a properly completed application in accordance with the provisions of this Chapter and following receipt of an affirmative recommendation from the Chief of Police, the Clerk may issue to a Qualified Organization a permit authorizing the sale or dispensing of wine at an event sponsored by such qualified organization if the Clerk is satisfied that the proceeds, after deducting reasonable expenses incurred, will be donated for a benevolent, charitable or public purpose.

(C) Any permit issued to an applicant who desires to conduct a charitable event within the City shall be subject to the following conditions:

(1) Except as otherwise provided in subsections (2) and (3) of this Section, all events shall be conducted within a confined area constructed and operated in accordance with the terms and provisions of this subsection. The applicant shall designate in his or her application, an area not to exceed one thousand two hundred fifty square feet (1250 ft²) in which all wine will be sold, dispensed, possessed and consumed. Such area shall be...
completely surrounded by a fence, barricade, or other physical barrier to pedestrian
traffic, except for one (1) opening not to exceed six feet (6') in width. Such defined
premises shall be at such location as may be approved by the Chief of Police or his or
her designee, which location shall be specified on the permit. Such defined area shall be
considered to be the "premises" for the purposes of of this Chapter and the applicant
shall not sell or dispense wine outside such area. The applicant shall also erect and
maintain in a conspicuous location at all times, a sign with large letters no less than two
inches (2") high bearing the following legend: "No Open Container of Wine May Be
Possessed or Transported Beyond the Fenced Area," or such other legend which
adequately apprises customers of the prohibitions set forth in this Chapter. Failure to
construct or maintain such fence, barrier or sign shall be grounds for summary
revocation of such permit. The Chief of Police or the Clerk may establish additional
conditions or restrictions as reasonably necessary to protect the public health and safety,
or alternatively may waive or modify the conditions and restrictions herein provided
such waiver or modification does not jeopardize the public health and safety.

(2) Charitable events may, with the prior approval of the Chief of Police, be conducted in
or upon a public street, subject to the terms and conditions of this subsection. Wine may
be dispensed at an event conducted in a public street and within an area comprised of no
more than one (1) street on one (1) side of a City block, excluding any intersections
thereof, provided it is dispensed only between the hours of 5:00 o'clock p.m. and 9:00
o'clock p.m. on any permitted day of the week. Wine shall not be sold on Sundays or
legal holidays at such events. Such street area shall be considered to be the "premises"
for the purposes of this Chapter and the applicant shall not sell or dispense wine outside
such area. The applicant shall also erect and maintain at all times in a conspicuous
location at each end of such street area, a sign with large letters no less than two inches
(2") inches high bearing the following legend: "No Open Container of Wine May Be
Possessed or Transported Beyond this Point," or such other legend which adequately
apprises customers of the prohibitions set forth in this Chapter. Failure to construct or
maintain such fence, barrier or sign, or failure to comply with such hours of operation,
shall be grounds for summary revocation of such permit.

(3) Charitable events may be conducted within the confines of i) the public plaza located at
the corner of Park and B Street, or (ii) the Tautphaus Park Zoo, which plaza or Zoo
shall be considered to be the "premises" for the purpose of this Code and the applicant
shall not sell or dispense wine outside such area. The applicant shall also erect and
maintain in a conspicuous location within such plaza or Zoo at least two (2) signs with
large letters no less than two inches (2") high bearing an appropriate legend which
adequately apprises the customer of the prohibitions set forth in this Chapter. Failure to
construct or maintain such sign shall be grounds for summary revocation of such
permit. For the purposes hereof, the term "Zoo" shall consist of that area bounded by the
perimeter fence of the Idaho Falls Tautphaus Park Zoo, but in no event closer than thirty
feet (30') measured perpendicularly to such fence. Events conducted within the Zoo
shall be subject to the further condition that all net proceeds derived from such event
shall be used for the benefit of or donated to the Tautphaus Park Zoo.

(D) Permits issued under the subsections above shall not exceed a period of greater
than three (3) consecutive days. No Qualified Organization shall conduct more than two (2) events
within the Green in any calendar year. Nothing herein shall authorize or allow the issuance of any permit to sell or dispense wine in any park in violation of this Code.

(E) The form of the application shall require the following information:

1. The names, mailing addresses and telephone numbers of the sponsors of the event, the tax identification number of the sponsor or sponsors and satisfactory evidence that the sponsor is a Qualified Organization;

2. Quantities and types of wine products to be used at the event;

3. Names of the dealer or wholesaler from whom the wine is to be received;

4. The retailer, if any, designated by such person or nonprofit entity to receive, store or dispense wine on behalf of the permittee;

5. Dates and hours of operation for which the permit is desired;

6. The location of the event and a description of the premises where wine will be sold, dispensed or conveyed; and

7. Such other information directly related to the event and the applicant that the Clerk or Chief of Police may require.

(F) For the purposes hereof, a "Qualified Organization" shall mean any benevolent, charitable, or public organization or person to whom a permit has been issued by the Director of the Idaho Department of Law Enforcement pursuant to the provisions of the Idaho Code.

(G) Within ninety (90) days after the conclusion of the event, the permittee shall submit an accurate and complete report to the Clerk showing the disposition of funds from the event in accordance with the provisions of this Chapter.

(H) The Clerk shall collect a fee in an amount set from time to time by Resolution of the Council for each permit issued, provided however permits issued for benevolent, charitable, or public purposes may be issued for multiple events conducted within a calendar year, provided that such events are separated by a period of at least six (6) days. Such multiple event permit fee shall be in an amount set from time to time by Resolution of the Council. In the event an applicant seeks a permit to sell beer and wine at the same location, the combined permit fee be in an amount set from time to time by Resolution of the Council.

(I) Should the Chief of Police or City Council determine that an applicant, permittee or its representative is violating any provision of this Chapter, or has in the past violated any law pertaining to the dispensing or sale of wine by a licensed retailer relating to hours of sale, relating to restrictions concerning age provided in the Idaho Code or under this Chapter, or has failed in the past to submit such information as may have been requested by the Clerk such permit may be summarily suspended by the Chief of Police prior to hearing, or may be denied or canceled pending a hearing.
(J) A licensed retailer may, on behalf of the permittee, receive or store wine to be used at the event and may dispense such wine to attendees of the benevolent, charitable or public purpose event for which the permit was issued.

(Ord. 2262, 1-8-98, Ord. 2481, 2-28-03; Ord. 2492, 6-12-03; Ord. 2650, 06-08-06; Ord. 2809, 4-23-09; Ord. 2836, 4-22-10; Ord. 2867, 3-10-11; Ord. 2964, 8-14-14; Ord. 3236, 01-31-19)

4-4-13: POSSESSION OF OPEN CONTAINERS PROHIBITED:

(A) Any person who is in possession of an open container of wine within the City of Idaho Falls shall be guilty of a misdemeanor.

(B) Notwithstanding the foregoing, nothing herein shall prohibit the possession of an open container of wine:

(1) Within a fully enclosed, privately-owned building or upon a private parking lot adjacent or appurtenant to such building provided such parking lot is located more than two hundred (200) feet away from the premises of any licensed liquor vendor. Such distance shall be measured at the shortest distance between the exterior boundaries of such parking lot and licensed premises.

(2) Within any private residence or upon the yard thereabout, or within any apartment, duplex, condominium, boarding house or other structure lawfully used as a permanent residence, or within any common area or area designated exclusively for and appurtenant to such residential occupancy.

(3) Within any area for which a liquor catering permit has been lawfully issued under the provisions of this Chapter.

(4) Within any area included within or being a part of the premises at which a licensee is authorized to sell or dispense wine by the drink under the provisions of this Chapter.

(5) Within any building or upon any premises for which a permit has been issued under the provisions of this Chapter.

(6) Within an area directly adjacent to a restaurant, at tables provided for dining, between the hours of 10:00 a.m. and 11:00 p.m. “Restaurant” is defined as an eating establishment which offers for sale food to the public. A restaurant must also have the appropriate license to sell the type of alcohol they offer to the public, including an approved site plan as part of its State alcohol permit. If the adjacent area includes a public sidewalk, the size of the tables and seating must allow sufficient room for public ingress and egress, including being compliant with all ADA
laws and regulations for sidewalk use under this Code. All consumption of alcohol in this adjacent area must be done at the table, and the customer cannot carry the alcohol away from the table.

(7) Within a Permitted Event alcohol sales and consumption area.
(Ord. 2262, 1-8-98, Ord. 2481, 2-28-03; Ord. 2916, 02-28-13; Ord. 3044, 10-12-15; Ord. 3236, 01-31-19)

4-4-14: HOURS OF SALE - RETAIL SALES: It shall be unlawful for any person in any place licensed to sell wine for consumption off the premises, to sell or dispense wine or to permit the consumption of wine on the premises between 2:00 a.m. and 7:00 a.m. of any day.
(Ord. 3134, 9-14-2017; Ord. 3236, 01-31-19).

4-4-15: HOURS OF SALE - BY THE DRINK:

(A) It shall be unlawful for any person in any place licensed to sell wine for consumption on the premises, whether for pleasure or profit, to sell, offer to sell or dispense wine for consumption on the premises or to permit the consumption of wine on the premises between 2:00 a.m. and 7:00 a.m. of any day.

(Ord. 2385, 8-10-00; Ord. 2447, 5-9-02; Ord. 2804, 3-12-09; Ord. 2818, 7-23-09; Ord. 2847, 10-14-10; Ord. 3134, 9-14-2017; Ord. 3236, 01-31-19)

4-4-16 EXPIRATION: Licenses issued under this Chapter shall expire at midnight on September 30 of the calendar year for which they are issued. (Ord. 3236, 01-31-19)
CHAPTER 5
PUBLIC RIGHT-OF-WAY CONTRACTORS

SECTION:

4-5-1: Definitions
4-5-2: License Required
4-5-3: Application for License
4-5-4: Term of License
4-5-5: License Fees
4-5-6: License Not Transferable
4-5-7: Insurance and Bonding
4-5-8: Duties and Responsibilities of Public Right-of-Way
4-5-9: Suspension and Revocation of Licenses

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

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

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

(Ord. 2969, 11-25-14)

4-5-2: LICENSE REQUIRED:

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

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

(1) a person working under the direct supervision and bond of a licensed public right-of-way contractor;

(2) a person who solely installs, lays, forms or places concrete for any sidewalk, curb, gutter or driveway within a public right-of-way and adjacent or appurtenant to property owned by such a person;

(3) a City employee engaged in performing work for the City or an employee of the State of Idaho while engaged in performing work for the State;
(4) a utility holding a franchise granted by the City, but not including a contractor or subcontractor of such utility;

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

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

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

4-5-4: TERM OF LICENSE: Each license issued under this Chapter shall expire on December 31 of the year for which it is issued. (Ord. 2969, 11-25-14)

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

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

4-5-7: INSURANCE AND BONDING:
Liability and Hazard Insurance: Every contractor granted a license under this Chapter shall maintain comprehensive general liability coverage including completed operations in an amount not less than five hundred thousand dollars ($500,000) single limit liability for personal injury, death and property damage, provided however if the work to be done is limited to excavation in an easement situated entirely on private property or is for construction of a concrete sidewalk, curb or gutter located within a street right-of-way and parallel with adjoining private property, the amount of such insurance shall be not less than one hundred thousand dollars ($100,000), single limit. Coverage for underground hazard shall also be included. Contractors engaged in work requiring the use of explosives or work that may endanger or cause the collapse of adjacent buildings or facilities shall also carry explosion and collapse hazard coverage with a minimum limit of five hundred thousand dollars ($500,000) single limit liability for personal injury, death and property damage. This coverage may be carried on an individual "project" or "permit" basis where the need for such coverage is applicable. Each policy as required above shall carry an endorsement naming the City as an additional insured under said policy. Each
policy shall also contain a clause requiring that the City Engineer be given at least thirty (30) days
advance written notice in the event of anticipated cancellation of the policy or any coverage under the
policy. Certificates of insurance evidencing the required coverage shall be filed with the City Engineer
along with the contractor's license application.

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

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

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

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

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

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

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

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

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

(F) The licensee shall obtain all inspections required by this Code.
(G) The licensee shall construct or reconstruct all underground facilities in strict compliance with all applicable codes, specifications and standards adopted by the City.

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

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

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

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

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

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

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

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

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

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

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

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

(C) If the decision rendered by the City Engineer is adverse to the licensee, the licensee may appeal to the Council. Such appeal must be filed within thirty (30) days after delivery of the ruling to
the licensee. Such delivery shall be presumed complete upon its deposit in the U.S. mail, postage prepaid, addressed to the last known address of the licensee. The decision rendered by the Council shall be final. (Ord. 2969, 11-25-14; Ord. 3186, 05-24-18)
CHAPTER 6
PRIVATE PATROL SERVICES

SECTION:

4-6-1: PRIVATE PATROL PERSON DEFINED; EXCEPTIONS:

(A) Definition: As used in this Chapter, a "private Patrol Person" is any person who contracts or is employed or hired to guard, protect or maintain peace and order in or about any structure, premises or property within the City. This definition shall apply regardless of whether or not such person wears a uniform and without regard to whether he or she performs these activities on foot or by vehicle.

(B) Exceptions: The following persons are specifically excluded from the definition of "private Patrol Person" set forth in this section:

(1) Regularly appointed City police officers.

(2) Regularly appointed peace officers and law enforcement agents of the United States, the State of Idaho or any political subdivision of the State.

(3) Guards, officers and detectives employed by interstate or intrastate carriers.

(4) Guards, officers and detectives employed by a private business to guard, protect or maintain peace and order in or about structures, premises or property owned, maintained or used by the private business, where the
major portion of such employment is confined to services performed on or in such structures, premises or property.

4-6-2: PRIVATE PATROL SERVICES DEFINED: As used in this Chapter, a "private patrol service" is any business which employs two or more private patrol persons.

4-6-3: LICENSE REQUIRED: No person shall act or offer to act as a private Patrol Person and no person shall engage in the business of a private patrol service without first obtaining a license from the City.

4-6-4: LICENSE APPLICATION, PRIVATE PATROL PERSON:

(A) Applications for private Patrol Person licenses shall be made at the office of the City Clerk on a form furnished by the City. The application shall state the applicant's full name, age, residence, present and previous occupations for a period of three (3) years prior to the application and all other information necessary to show that the applicant meets the qualifications set forth in this Chapter. At the time of making application, the applicant shall have his or her fingerprints taken by the City Police Department. The application shall be accompanied by a nonrefundable license fee.

(B) To determine the suitability of prospective applicants for a license, the Chief of Police shall require a first time applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Section 67-3008, Idaho Code, and congressional enactment Public Law 92-544, the Chief of Police shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police, Bureau of Criminal Identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The Chief of Police is authorized to receive criminal history information from the Idaho State Police and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of applicants for a license under this section. As required by state and federal law, further dissemination of other use of the criminal history information is prohibited. Fingerprinting shall not be required for a license renewal. (Ord. 2440, 2-15-02)

4-6-5: QUALIFICATIONS, PRIVATE PATROL PERSON: No person shall be issued a license as a private Patrol Person who:

(A) Is not at least twenty-one (21) years of age.

(B) Is not a citizen of the United States.

(C) Has been convicted of a felony or of any crime or offense involving violence or moral turpitude, or of any offense concerning the sale or transportation of intoxicating or alcoholic liquor.

4-6-6: LICENSE APPLICATION, PRIVATE PATROL SERVICE: Applications for private patrol service licenses shall be made at the office of the City Clerk on a form furnished by the City. The application shall state the applicant's full name, age, residential address, present and previous occupations for a period of three (3) years prior to the application, the name of the business and all other information necessary to show that the applicant meets the qualifications set forth in this Chapter.
If the applicant is an individual, the application shall be signed or verified by such individual; if the applicant is a firm or partnership, the application shall be signed and verified by at least one of the individuals comprising such firm or partnership; if the applicant is a corporation, the application shall be signed and verified by the president or the secretary and treasurer thereof; or if a foreign corporation, such application shall be acceptable if accompanied by a certificate signed by the proper officers of such corporation showing the place and date of incorporation, a certified copy of its right to do business in the State, and the name and address of its duly authorized local agent in the State, its principal place of business in the City, and the application shall be signed and verified by the duly authorized local agent of such foreign corporation. The application shall be accompanied by a nonrefundable license fee.

4-6-7: QUALIFICATIONS, PRIVATE PATROL SERVICE: A private patrol service license shall not be issued to any individual, firm, partnership or corporation under any of the following conditions:

(A) If the individual, any member of the firm or partnership, or any officer of the corporation is less than twenty-one (21) years of age.

(B) If the individual, any member of the firm or partnership or any officer of the corporation is not citizen of the United States.

(C) If the individual, any member of the firm or partnership or any officer of the corporation has been convicted of a felony or of any crime or offense involving violence or moral turpitude, or of any offense concerning the sale or transportation of intoxicating or alcoholic liquor.

4-6-8: LICENSE APPROVAL AND ISSUANCE: On receipt of a completed application for any license required under this Chapter and the relevant license fee, the City Clerk shall forward the application to the Chief of Police for review and recommendation for approval or denial. The Chief of Police shall review the application and conduct whatever investigation is necessary to determine whether the applicant is qualified for the license sought. Within thirty (30) days of receiving the application from the City Clerk, the Chief shall return the application together with the recommendation to the Clerk. The Clerk shall submit the application and the Chief's recommendation to the City Council. The Council shall have authority to approve or deny the issuance of any license required by this Chapter. If the Council approves the issuance of the license, the City Clerk shall issue the license.

4-6-9: BOND REQUIRED:

(A) Bond Required: Before any license is issued under this Chapter, the applicant shall file with the City Clerk a surety bond in favor of the City in the amount set forth in this section. This bond shall be in a form approved by the City Attorney, executed by the applicant as principal and issued by a surety licensed to engage in business in the State of Idaho. The bond shall be issued for a term coterminous with the term of the license sought. The bond shall be conditioned upon the honest and lawful conduct of the activities for which the applicant seeks a license and to hold harmless the City against any personal injury or property damage resulting from any act of the licensee.
(B) Amount of Bond: The amount of the bond(s) required under this Section for a private Patrol Person or for a private patrol service shall be in an amount set from time to time by Resolution of the Council.

(C) Forfeiture: If the City Council determines that the licensee has made any false statement on the license application or that the licensee or any employee or agent of the licensee commits any dishonest or unlawful act in the conduct of the licensee's services or business, the Council may order the entire amount of the surety bond forfeited. The Council also may order that the proceeds of the bond be paid to any person damaged by any dishonest, unlawful, willful, malicious or wrongful action of the licensee or any employee or agent of the licensee.

(D) Return of Bond: After expiration of the license and on written request of the licensee, the City Clerk shall return the surety bond within six (6) months of the date of the request for return, unless the Clerk has received notice that any claim or cause of action is pending against the bond, then the Clerk shall return the bond within thirty (30) days after final resolution of the claim or cause of action. (Ord. 2964, 8-14-14)

4-6-10: INSURANCE REQUIRED: Any person licensed under this Chapter shall obtain and maintain a policy of general public liability insurance in an amount of not less than $500,000- single limit liability for personal injury and property damage resulting from the licensee's activities as a private Patrol Person or in conducting a private patrol service. The licensee shall be a named insured under this policy. Before any license is issued under this Chapter, the applicant shall file a certificate evidencing such insurance with the City Clerk. The certificate shall provide that the insurance policy required by this Section shall not be canceled except upon thirty (30) days prior written notice to the City Clerk.

4-6-11: LICENSE FEES: Fees required for licenses for a Private Patrol Person and for a Private Patrol Service issued under this Chapter shall be in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14)

If any person makes application for a license as a private Patrol Person or to operate a private patrol service within thirty (30) days after the expiration of his or her license under this Chapter, the license fee shall be one half (1/2) of the amounts set forth above.

4-6-12: LICENSE EXPIRATION: All licenses issued under this Chapter shall expire at 12 midnight, December 31 of the year for which the license is issued.

4-6-13: FORM OF LICENSE: The license for a private Patrol Person shall be an identification card containing the words "private Patrol Person" and stating the year for which the license is issued. The license for a private patrol service shall be a placard stating the name of the licensee and the year for which the license is issued. Upon the termination or expiration of any license, the license shall be returned to the City Clerk.

4-6-14: UNLAWFUL DISPLAY OF LICENSE: It shall be unlawful for any person to wear or display any license required by this Chapter unless the person is duly licensed therefor.
4-6-15: PRIVATE PATROL SERVICE EMPLOYEES: It shall be unlawful for any private patrol service to employ any person to perform the services of a private Patrol Person unless that person holds a valid private Patrol Person license issued by the City.

4-6-16: LICENSE; AUTHORITY: The issuance of any license under this Chapter shall not be construed as granting any power of arrest other than that granted a private person under Idaho Code and this Code. Nor shall the provisions of this Chapter be construed as authority to carry weapons contrary to the Idaho Code.

4-6-17: GROUNDS FOR LICENSE REVOCATION: Any license issued under this Chapter may be revoked by the City Council for any of the following reasons:

   (A) Any violation of any provision of this Chapter.

   (B) The conviction of the licensee in any court of any crime or offense involving violence or moral turpitude.

   (C) Obtaining the license under any false or fraudulent pretense or statement.

   (D) The conviction of the licensee in any court of any felony or any offense involving or concerning the sale or transportation of intoxicating or alcoholic liquor.

4-6-18: AUTOMATIC REVOCATION OF LICENSE: Any license issued under this Chapter shall be revoked immediately and without notice to the licensee upon the cancellation or termination of the bond or insurance required by this Chapter unless the licensee posts a new comparable bond or obtains comparable insurance and files a certificate of such insurance with the City Clerk prior to the date on which the original bond or insurance is canceled or terminated.
CHAPTER 7
BUILDING CONTRACTORS

SECTION:

4-7-1: Purpose
4-7-2: Definitions
4-7-3: License Required; Exceptions
4-7-4: Proof of License
4-7-5: Duties of Contractors
4-7-6: Contractors Registration
4-7-7: Licenses Authorized
4-7-8: Application Form and Fee
4-7-9: Renewal or Reinstatement of License
4-7-10: Examinations, License Approval and Issuance
4-7-11: Firms/Designated Representatives
4-7-12: Continuing Education
4-7-13: Contractor Discipline
4-7-14: Hearing Panel Action
4-7-15: Non-disciplinary hearings
4-7-16: Safe Harbor Provisions
4-7-17: Hearings
4-7-18: License Application and Issuance
4-7-19: Final Appeal to Council
4-7-20: (Repealed)

4-7-1: PURPOSE: The purpose of this Chapter is to protect the health, safety and welfare of the inhabitants of the City by ensuring that all buildings within the City are constructed by qualified contractors, that such contractors comply with all applicable building, electrical, plumbing and other construction codes and that all appropriate permits and inspections are obtained. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07)

4-7-2: DEFINITIONS: Certain words and phrases used in this Chapter are defined as follows:

BUILDING: Any structure used or intended to support or shelter any use or occupancy as defined by the International Building Code.

BUILDING CONTRACTOR: A "contractor," within the meaning of this Chapter, is any person or firm that undertakes to construct, alter, repair, or demolish any structure or any portion thereof including every general contractor, building contractor, and residential contractor. Unless provided otherwise by this Chapter, only a contractor licensed under the provisions of this Chapter may obtain a building permit.

BUILDING CONTRACTOR'S LICENSE: A license issued by the City allowing the holder to engage in the activities of a building contractor.

BUILDING OFFICIAL: An officer or employee of the City charged with the administration of this Chapter and the International Building Code.
CLASS A CONSTRUCTION: All residential, commercial and industrial building construction of any kind.

CLASS B CONSTRUCTION: The construction of hotels, apartment houses and buildings that are not more than three (3) stories above grade and are within occupancy groups A, B, E, F, H, I, M, or R, as defined by the International Building Code, including Class C construction.

CLASS C CONSTRUCTION: The construction of structures regulated by the International Residential Code.

CLASS D CONSTRUCTION: Relating to specific trades, including, but not limited to, such concrete, masonry, framing, drywall or roofing.

DIRECTOR: The Director of the Community Development Services Department of the City.

FIRM: For purposes of this Chapter, Firm means any sole proprietorship, partnership, association, limited liability company or corporation.

INTERNATIONAL BUILDING CODE: The International Building Code and International Residential Code as adopted and amended by the City.

INTERNATIONAL FIRE CODE: The International Fire Code as adopted and amended by the City.

(Ord. 2203, 5-23-96; Ord. 2520, 12-18-03; Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08; (Ord. 3003, 04-23-15).)

4-7-3: LICENSE REQUIRED; EXCEPTIONS:

(A) License Required: No person shall build, construct, alter, repair or modify any building in the City without obtaining an appropriate building contractor's license as set forth below.

(B) Exceptions: The licensing requirement in this section shall not apply to the following:

(1) The installation, construction, repair or modification of any water line, sewer line, gas line, railroad line, telephone line, cable TV line, electrical line, fiber optic line or telecommunications line.

(2) The construction, repair, alteration or demolition of any road, bridge or structure directly appurtenant to any road or bridge.

(3) A homeowner who personally occupies or will occupy and undertakes the construction, alteration, repair, or maintenance of such homeowner's single-family residence or an accessory structure thereto. This exception is not intended to prohibit the homeowner from having assistance in the construction of the home from others provided that any persons assisting such homeowner hired as paid labor shall be deemed a sub-contractor.
and shall be required to be licensed as such in accordance with Section 4-7-7 of this ordinance. Notwithstanding the foregoing, for purposes of this section, any homeowner who undertakes the construction of a new residence for such homeowner's personal occupancy more than two times in any five year period shall be deemed to be a "contractor" under this Chapter. A "homeowner" is defined as any person, or spouse of that person, who owns the home or property

(4) Any person who is a bona fide employee of a contractor holding a valid building contractor's license or a subcontractor of a licensed general contractor, and who engages in building construction while generally under the direct supervision and control of the licensed building contractor.

(Ord. 2520, 12-18-03; Ord. 2681, 11-21-06; Ord. 2772, 08-14-08; Ord. 2772, 08-14-08)

4-7-4: PROOF OF LICENSE: Before being issued a building permit within the City, the contractor must show proof of the appropriate contractor's license to the City of Idaho Falls Building Department. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-5: DUTIES OF CONTRACTORS: Contractors licensed under this Chapter shall have the following duties:

(A) Contractors shall comply with all provisions of the International Building Codes, Uniform Plumbing Code, International Fire Code, and any other building or construction code adopted by the City.

(B) Contractors shall obtain all permits and pay all applicable fees required by the City Code.

(C) Contractors shall obtain all inspections as required by the City Code.

(D) Contractors shall ensure that all buildings are constructed without substantial departure from any drawings and specifications filed with and approved by the City.

(E) Contractors shall obey all lawful orders of the Director, the Building Official or their authorized representatives.

(F) Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including work done by the contractor's employees, agents and subcontractors.

(G) Contractors are responsible for all of their employees and sub-contractors working generally under the direct supervision and control of the contractor. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-6: CONTRACTORS REGISTRATION: Every Contractor will be registered with the Idaho Bureau of Occupational Licenses as required by Idaho Code § 54-5101 et. seq. Evidence of
registration shall be provided to the City or its designated agent upon initial application and each subsequent renewal.

(Ord. No. 2625, 10-27-05; Ord. 2681, 11-21-06; Ord. 2772, 08-14-08))

4-7-7: LICENSES AUTHORIZED: There shall be four (4) separate classes of licenses authorized for contractors as provided in this Chapter. All license fees set forth below may be amended by Resolution of the Council.

   (A) A Class A License shall entitle the holder thereof to construct, remodel, repair, and demolish any structure. The annual Class A License fee shall be in an amount set from time to time by Resolution of the Council.

   (B) A Class B License shall entitle the holder thereof to construct, remodel, repair, and demolish all structures not exceeding three stories in height. A Class B License shall also entitle the license holder to perform non-structural remodeling, tenant-finish, and repairs of all structures. The annual Class B License fee shall be in an amount set from time to time by Resolution of the Council.

   (C) A Class C License shall entitle the holder thereof to construct, remodel, repair, and demolish single family or duplex residences and buildings accessory thereto. The annual Class C License fee shall be in an amount set from time to time by Resolution of the Council.

   (D) A Class D License shall entitle the holder thereof to perform the specific trade for which they are licensed for, whether it be concrete, masonry, framing, drywall or roofing, or other specific trade. The annual Class D License fee shall be in an amount set from time to time by Resolution of the Council.

   (E) The original fee and renewal for any license applied for under the reciprocity provisions of Section 4-7-10(A)(3) of this Chapter shall be in an amount set from time to time by Resolution of the Council for those who hold an equivalent license from an out-of-state jurisdiction or organization. The fee shall be in an amount set from time to time by Resolution of the Council for an applicant who holds an equivalent license from an in-state jurisdiction or organization. (Ord. 2964, 8-14-14)

4-7-8: APPLICATION FORM AND FEE: The Director shall receive and process contractor license applications. An application fee of $100 shall accompany each original application except for those applying under 4-7-10(A)(3). No application fee shall be required in connection with a license renewal. All application and license fees shall be paid without proration. No contractor license may be transferred or assigned. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08))

4-7-9: RENEWAL OR REINSTATEMENT OF LICENSE:

   (A) Every contractor license shall be issued on a calendar year basis to expire on December 31st of each year. The first year's fee shall be pro-rata, based upon when the license is granted. A contractor shall be entitled to renew such contractor's license upon satisfaction of the requirements of this Chapter. A license renewal application may be submitted to the City beginning on
December 1st through and including the last day of January without a late fee. Thereafter, a late fee in an amount set from time to time by Resolution of the Council, shall be collected to offset administrative costs incurred as a result of such late renewal. Unless an expired license is renewed within one year of its expiration, the contractor shall be required to make a new application and satisfy all of the then-existing contractor licensing requirements. License renewal applications shall be mailed by the Director no later than November first of each year to every licensed contractor at the address provided by the contractor. The failure to receive a renewal application shall not excuse untimely license renewal.

(B) During the annual renewal period, a licensed contractor that has completed the annual requirement for continuing education may, upon the payment in an amount set from time to time by Resolution of the Council, have the contractor's license declared inactive. No building permit shall be issued to a contractor with an inactive license. The holder of an inactive license may annually renew the inactive license upon the completion of all continuing code education requirements and the payment of the annual renewal fee. The holder of an inactive license may obtain an active contractor's license at any time upon the payment of the required license fee.

(C) Any contractor whose license is suspended for any code related violation must provide satisfactory evidence to the Board established by the Director that the violation has been corrected in accordance with the applicable Code. Failure to provide such evidence may result in the revocation of the contractor's license.

(D) When a contractor's license is revoked, a new license shall not be granted until the contractor has first passed an examination as required by Section 4-7-10 and has provided the City or its designated agent with satisfactory evidence that a new license should be issued. If the contractor's license was revoked as a result of a Code-related violation, such contractor may not be relicensed unless the City determines that the violation has been corrected.

(E) Reciprocal license holders under Section 4-7-10(A)(3), shall submit current verification of licensing with another jurisdiction or organization approved by the director. The renewal fee is set forth in Section 4-7-7(E). (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08; Ord. 2964, 8-14-14)

4-7-10: EXAMINATIONS, LICENSE APPROVAL AND ISSUANCE:

(A) Contractor applicants shall be licensed upon their delivery to the Director of proof that the applicant or person employed by the applicant on a full-time basis meets one or more of the following qualifications:

(1) Possession of a valid certificate of competency from a nationally-recognized testing institution; or

(2) Possession of a bachelor's degree in engineering, architecture, or construction science from an accredited college or university;

(3) Possession of a license from another jurisdiction or organization which the Director determines is sufficient to warrant reciprocity. The business
from the other jurisdiction or organization must have an equivalent or greater continuing educational requirements.

(B) The Director is hereby authorized to administer examinations to determine the qualifications of applicants and may utilize the International Code Council examination, or other similar, nationally-recognized examination.

(C) The Director shall expeditiously process all license applications. The City shall adopt reciprocity rules and regulations to allow persons and firms from other states or municipalities within or without the state to obtain a contractor's license based upon such person's or firm's licensure in such other state or municipality.

(D) The contractor-applicant shall disclose, at the time of application, any current or previous contractor license held in Idaho or any other state and any disciplinary actions taken against such contractor-applicant. If the contractor-applicant is employed by or a principal of a firm, the application shall disclose whether the firm or the firm's employees or principals have had any contractor-related disciplinary action taken against them in Idaho or any other state. No license shall be issued to any contractor-applicant who has had a license suspended or revoked for disciplinary reasons, or who has surrendered a license during any disciplinary proceeding or investigation, within the immediately preceding five years. Any contractor-applicant denied a license under the provisions of this section may appeal such denial to the hearing panel selected by the Mayor and City Council.

(Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)

4-7-11: FIRMS/DENZIGNATED REPRESENTATIVES:

(A) Under this Chapter, a firm may obtain, in the firm's name, a contractor's license provided that such firm has at least one full-time employee who is designated by the firm as its representative and such designated representative satisfies one of the requirements of Section 4-7-10 of this Chapter. A designated representative must spend a minimum of thirty (30) hours a week carrying out the work of the firm. Whenever a building permit is issued in the name of a firm, the firm shall be subject to this ordinance.

(B) A contractor, including firms, may appoint, on forms provided by the City, one or more individuals who shall be authorized to obtain building permits on behalf of the contractor. Such individuals are not required to be a licensed contractor. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-12: CONTINUING EDUCATION: Every contractor shall complete at least eight (8) hours of continuing education as required by the Director each calendar year. The Director shall recognize codes-related education provided by other governmental entities, trade associations, contractor education providers and other competent educational institutions for courses and instruction directly related to those codes adopted within the state of Idaho. The licensing fee, except those who receive a license through reciprocal admission under Section 4-7-10(A)(3), shall cover tuition costs for at least eight (8) hours per year, provided by the Director. Employees of non-reciprocal licensed contractors may attend a course for the cost in an amount set from time to time by Resolution of Council. A contractor with a reciprocal license may attend a course for the cost in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14)
4-7-13: CONTRACTOR DISCIPLINE: The Director shall have the authority to admonish, reprimand, and otherwise discipline any contractor who violates any requirements of this Chapter. Any discipline that does not involve a suspension or revocation of the license will not require a hearing. Any monetary fine is subject to an appeal as set forth below. If a disciplinary action could result in a suspension or revocation of the license, a hearing shall be held following not less than ten days’ notice to the affected contractor. A three person panel shall be appointed by the Mayor and approved by the City Council to hear any contractor discipline which involves a suspension or revocation of a contractor's license. This three person hearing panel shall consist of one building official and two licensed contractors. The hearing panel may suspend or revoke a contractor's license if the hearing panel concludes, following a hearing, that the contractor's action or inaction is:

(A) A serious or repeated violation of the provisions of this Chapter, any applicable Code, or the failure to comply within a reasonable time to any written order of a building code official;

(B) A knowing and intentional misrepresentation of a material fact made in connection with obtaining a contractor's license or a building permit;

(C) A fraudulent or deceitful use of a contractor's license to obtain a building permit;

(D) A failure to obtain a building permit or to obtain a required inspection of an ongoing project as required by any applicable Code;

(E) A failure to exercise regular, routine control and supervision over an ongoing project for which the contractor has obtained a building permit;

(F) A failure to timely obtain a certificate of occupancy for a completed structure as required by applicable building safety code.

(G) A failure to hire a State of Idaho licensed electrical, plumbing, or HVAC contractor to supervise any electrical, plumbing, or HVAC work on the job site for which the contractor obtained a building permit; or

(H) A failure by a contractor to pay the required application or licensing fees for a building permit, contractor license or inspection fee.

(I) If a contractor operating as a business entity (i.e. not as a sole proprietorship) has performed work as a building contractor at any time while the contractor does not have within its full-time employ, a person who satisfies any of the criteria of Section 4-7-10 of this Chapter. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-14: HEARING PANEL ACTION: A quorum of at least two hearing panel members must be present to conduct a hearing. Upon a finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of Section 4-7-13 of this Chapter, the hearing panel may admonish, reprimand, or take other appropriate disciplinary action against such contractor including, but not limited to:
(A) Suspension of the contractor's license for a fixed period not to exceed ninety days.

(B) Suspension of the contractor's license for a fixed period exceeding 90 days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the hearing panel at the expiration of the first 90 days and every 90 days thereafter to determine if just cause exists to modify or terminate the suspension. Such reconsideration may, at the hearing panel's option, include a hearing.

(C) Revocation of the contractor's license for a period not less than 12 months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended five times during any 36-month period.

(D) Any decision of the hearing panel shall be made in writing and mailed to the contractor. A contractor may appeal any decision of the hearing panel to the Director by filing a notice of appeal with the Director within the 30 days following the third day after the hearing panel's written decision was mailed to the contractor as evidenced by a certificate of mailing which shall be included with the decision. When an appeal is filed, the Director shall forward the appeal to the appellate board together with the hearing panel record. The Mayor and City Council shall designate an appellate board. The appeal shall be de novo and no action shall be taken by the hearing panel during a pending appeal. The Appellate Board shall consist of the following:

1. Two members shall be certified building code officials within Idaho.
2. One member shall be licensed by the State of Idaho as an architect or civil engineer.
3. One member shall be a licensed general contractor or an employee of such contractor.
4. One member shall be a licensed building contractor or an employee of such contractor.
5. One member shall be a licensed residential contractor or an employee of such contractor.
6. One member shall be a licensed subcontractor.

To conduct any hearings, a quorum of at least five (5) members of the Appellate Board must be present. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)

4-7-15: NON-DISCIPLINARY HEARINGS: All non-disciplinary matters, including contested matters such as approval, issuance, reinstatement, or educational matters, shall be heard by the hearing panel. A contractor may appeal any decision of the hearing panel to the Director within thirty (30) days of the decision. The thirty (30) day appeal period shall commence three days after the date the decision is mailed to the contractor. The hearing panel shall forward the hearing panel decision to the Director together with the panel record. (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)
4-7-16: SAFE HARBOR PROVISIONS: A contractor shall not be found in violation of this Chapter, nor disciplined for a violation of an applicable building safety code provision if the contractor performs the work in accordance with and reliance upon duly certified plans and specifications prepared or approved by an architect or engineer licensed in Idaho without knowledge by the contractor that such plans and specifications, or pertinent parts thereof, are in violation of applicable Codes. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-17: HEARINGS: All contested matters pertaining to the approval, issuance, renewal, and reinstatement of licenses, including examinations, shall be heard by the Director. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-18: LICENSE APPLICATION AND ISSUANCE: All applications for building contractors' licenses shall be filed with the City Clerk, together with the appropriate license and application fees. Application forms shall be furnished by the Director and shall solicit all information necessary to determine the applicant's qualifications for licensing. Upon receipt of a properly completed application form, the Clerk shall forward it to the Director for his review and recommendation for approval or denial. On receipt of the recommendation of the Director, the City Clerk shall present the application, together with the Director's recommendation to the City Council for its approval or denial. Licenses shall be granted or denied within sixty (60) days of the date on which the application is filed with the City Clerk. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-19: FINAL APPEAL TO COUNCIL: All matters disputed by any contractor, after following the appeal processes outlined in this Chapter, may bring a final appeal to the City Council for a final decision. The City Council shall act as the final appeal board for all matters, and will hear the matter in an appellate review manner, not de novo. Notice of the appeal must be sent to the City Clerk within thirty (30) days from the date of the decision of the Director or a hearing panel. After a final action by the City, an applicant may file for Judicial Review within twenty-eight (28) days after the decision is made. (Ord. 2681, 11-21-06; Ord. 2772, 08-14-08)

4-7-20: (Repealed): (Ord. 2681, 11-21-06; Ord. 2691, 03-09-07; Ord. 2772, 08-14-08)
CHAPTER 8
DOOR-TO-DOOR SOLICITORS

SECTION:

4-8-1 Purpose
4-8-2 Unlawful Door-To-Door Solicitations
4-8-3 Definitions
4-8-4 Application for Door-To-Door Solicitation Permit
4-8-5 Fingerprints and Background Check
4-8-6 Eligibility for Permit
4-8-7 Term of Permit
4-8-8 Hours of Door-To-Door Solicitation
4-8-9 Suspension and Revocation
4-8-10 Appeal Process
4-8-11 Penalty

4-8-1: PURPOSE: Residents of City of Idaho Falls have a substantial interest in protecting their personal safety, well-being and privacy, as well as the right to provide or receive information regarding matters of personal belief, political or charitable activities and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety and privacy of its residents, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting residents from fraud or otherwise unfair consumer sales practices and criminal activity. The City recognizes that the substantial interests listed above must be balanced against the rights of those who are regulated by this Chapter. Based on the collective experiences of City elected officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to citizen inquiries regarding door-to-door solicitation, the experience of law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of Constitutional protections afforded to persons seeking to engage in door-to-door solicitation, the City adopts this Chapter to promote such interests. (Ord. 2896, 03-08-12)

4-8-2: UNLAWFUL DOOR-TO-DOOR SOLICITATIONS: It shall be unlawful for any person to:

(A) Engage in any door-to-door solicitation without a valid door-to-door solicitation permit issued by the City Clerk;

(B) Engage in any door-to-door solicitation without prominently displaying an identification badge provided by the City Clerk;

(C) Engage in any door-to-door solicitation at a residence which has a "No Solicitors Allowed" or other similar sign conspicuously posted at or near the primary entrance of the residence where such solicitation is made;

(D) Engage in door-to-door solicitation outside the hours permitted under Section 4-8-8 of this Chapter.
(E) Deliver an application for a door-to-door solicitation permit to the City Clerk containing any substantial misrepresentation or omission of material fact; or

(F) Make any misrepresentation of material fact or commit any fraudulent act during any door-to-door solicitation. (Ord. 2896, 03-08-12)

4-8-3: DEFINITIONS: For the purposes of this Chapter, the following terms shall have the means ascribed below:

DOOR-TO-DOOR SOLICITATION: Soliciting orders or donations for the sale of goods, wares, merchandise, subscriptions or personal services, without first having secured the permission of the owner or occupant of the residential dwelling where such solicitation is undertaken. The term "door-to-door solicitation" shall not include activities in which all proceeds are paid to one or more non-profit organizations currently certified under Sections 501(c)(3), (4) and (8) of the United States Internal Revenue Code, as the same presently exists or as may be amended hereafter. The term "door-to-door solicitations" does not include solicitations for the purpose of supporting a school-sanctioned activity sponsored by a publicly owned or chartered school or other educational institution whose principal business office is located within Bonneville County. Religious proselyting and political campaigning are not considered door-to-door solicitations.

HEARING OFFICER: An objective, unbiased individual appointed by the Mayor who shall decide questions brought on appeal by applicants regarding the denial of an application or suspension of a permit under this Chapter. (Ord. 2896, 03-08-12)

4-8-4: APPLICATION FOR DOOR-TO-DOOR SOLICITATION PERMIT: Each individual desiring a permit to engage in door-to-door solicitations shall file his or her application with the City Clerk. The application shall be in such form as may be determined by the City Clerk and shall be accompanied by a copy of the applicant's current driver's license, military identification card or other reliable form of photo identification. Upon completion of such application, delivery of the applicant's fingerprints in accordance with Section 4-8-5 hereof and payment of a permit fee in an amount set from time to time by Resolution of the Council, each eligible applicant shall be issued a permit and an identification badge containing a photograph of the applicant. Such permit shall be issued or denied within five (5) business days after the date the fully completed application form and permit fee are submitted to the City Clerk. (Ord. 2964, 8-14-14)

4-8-5: FINGERPRINTS AND BACKGROUND CHECK: Concurrently with the application for a permit, the applicant shall provide a clear and legible set of fingerprints and shall authorize the City to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Idaho Code Section 67-3008, and Public Law 92-544, the City may submit such fingerprints and required fees to the Idaho State Police, Bureau of Criminal Investigation along with a request for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The City may receive and use criminal history information from the Idaho State Police and the United States Federal Bureau of Investigation solely for the purpose of evaluating the applicant's fitness for a door-to-door solicitation permit. No further dissemination or other use of such fingerprints or criminal history information shall be made, except as otherwise permitted by State or Federal law. (Ord. 2896, 03-08-12)
4-8-6: ELIGIBILITY FOR PERMIT: No applicant shall be issued a permit if:

(A) The applicant has been convicted or granted a withheld judgment for any felony.

(B) The applicant has been convicted or granted a withheld judgment for any misdemeanor burglary within ten years prior to the date of the application.

(C) The applicant is subject to registration as a sex offender under the provisions of Title 18, Chapter 83, Idaho Code.

(D) The applicant has been convicted or granted a withheld judgment for any misdemeanor involving battery of domestic violence within ten years prior to the date of the application.

(E) The applicant has been convicted or granted a withheld judgment for any crime involving the sale, possession, or use of a controlled substance or the unlawful use or possession of drug paraphernalia, within five years prior to the date of the application. (Ord. 2896, 03-08-12)

4-8-7: TERM OF PERMIT: Every permit issued under this Chapter shall expire on December 31 of the year after the permit is issued, which expiration date shall be endorsed on the face of the permit and the identification badge provided by the City Clerk. The permit fee required under Section 4-8-4 hereof shall be payable in full regardless of the time of year in which the permit is issued. (Ord. 2896, 03-08-12)

4-8-8: HOURS OF DOOR-TO-DOOR SOLICITATION: Door-to-door solicitation, as permitted by this Chapter, shall be allowed only between the hours of 9:00 a.m. to 8:00 p.m. of the same day. No solicitation shall occur on Sunday or any legal holiday. (Ord. 2896, 03-08-12)

4-8-9: SUSPENSION AND REVOCATION: A permit may be temporarily suspended by the Chief of Police or his designee if it is determined that the applicant is not eligible for the permit or has violated any of the provisions of this Chapter. In such event, the Chief of Police or his designee shall physically deliver or mail a written notice of such suspension to the address specified in the application. Delivery shall be deemed to be complete upon physical delivery of the notice to the permit holder or upon deposit of the notice in the U. S. Mail, postage prepaid, certified mail, return receipt requested, addressed to the permit holder at the address specified in the application or such other address which may be delivered in writing to the City Clerk. If the applicant does not file an appeal of the suspension with the City Clerk within five business days after delivery of the suspension notice, then the permit shall be deemed automatically revoked. (Ord. 2896, 03-08-12)

4-8-10: APPEAL PROCESS: An applicant may appeal a denial of the application, or the suspension of a permit, by providing written notice to the City Clerk, within seven business days after delivery of the notice of denial of the application, or notice of suspension. Once the City Clerk receives the notice of appeal, the Hearing Officer shall schedule a hearing within five business days after the appeal is delivered to the City Clerk. The Hearing Officer shall issue a written decision and deliver a copy of such decision to the permit holder within two business days of the conclusion of the hearing. The Hearing Officer shall deliver a copy of the decision to the applicant or permit holder, as the case may be, in the same manner as set forth in Section 4-8-9 above. Suspensions by the Chief of
Police shall remain in full force and effect until the permit is automatically revoked or the Hearing Officer issues his or her decision. All decisions issued by the Hearing Officer shall be final and there shall be no appeal to the City Council. (Ord. 2896, 03-08-12)

4-8-11: PENALTY: Any person who violates any provision of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not more than five hundred dollars ($500), by incarceration in the Bonneville county Jail for not more than thirty (30) days, or both such fine and imprisonment. (Ord. 2896, 03-08-12)
CHAPTER 9
BURGLARY AND ROBBERY ALARMS

SECTION:

4-9-1: Purpose
4-9-2: Definitions
4-9-3: Duties of Alarm Installation Companies and Monitoring
4-9-4: Responsibilities of Alarm Users
4-9-5: Maintaining a Public Nuisance Alarm
4-9-6: Prohibited Alarm Systems
4-9-7: Violations

4-9-1: PURPOSE: The purpose of this Chapter is to reduce the number of false security alarms thereby enhancing police response time for critical calls for service and reducing the costs to the City arising from the increasing number of false security alarms. Further, the intent of this Chapter is to encourage alarm businesses and alarm users to maintain the operational viability of security alarm systems and to hold owners of alarm systems accountable for the costs associated with responding to false alarms.

4-9-2: DEFINITIONS: For the purposes of this Chapter, the following terms, phrases, and words, and derivations thereof, shall have the meanings given in this section:

ALARM INSTALLATION COMPANY: A person who engages in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an Alarm System in businesses or residences located within the City.

ALARM MONITORING BUSINESS: Any person who engages in the business of monitoring alarm systems located within the City and summoning police response to activations thereof. This term includes both businesses that are engaged in alarm monitoring for profit and businesses that monitor only their own alarm systems.

ALARM OFFICER: The Chief of the Idaho Falls Police Department or his or her designee.

ALARM SYSTEM: Any mechanical, electrical or other device located within the City and which is designed or used for the detection of a trespass, burglary, or robbery within a building, structure, or facility, and which emits an audible sound or which transmits a signal or message which is designed to elicit a response from the Police Department. Alarm systems include, but are not limited to, direct dial telephone devices, audible alarms and proprietor alarms. An alarm system includes all the necessary equipment designed and installed for the detection of a trespass, burglary, robbery or other hazard in a single building, structure, or facility, and for alerting public safety personnel to the commission of an unlawful act within a building, structure or facility.

ALARM USER: Any person who owns or installs and renders operable any alarm system or who contracts for the servicing or maintenance of an alarm system within any building or structure located within the City.

AUDIBLE ALARM: An alarm system which when activated generates sound or signal that is audible from the immediate vicinity of the premises where the alarm system is located.
AUTOMATIC DIALING DEVICE: An alarm system which automatically sends over a telephone line, by direct connection, internet, or otherwise, a pre-recorded voice message or coded signal indicating the existence of an emergency situation.

CALENDAR YEAR: The period between and including January 1 and December 31 of any given year.

CITY: The City of Idaho Falls, Idaho.

EMERGENCY: Any condition which requires or is expected to require a response of police or public safety personnel.

ENHANCED CALL VERIFICATION: An independent method whereby an alarm monitoring company attempts to determine that a signal from an automatic alarm system reflects a need for immediate police assistance or investigation. This verification process will be conducted by the alarm system monitoring personnel and shall consist of making two phone calls to the responsible party or parties and shall not take more than five minutes from the time the alarm signal has been accepted by the alarm system monitoring company. At least one of the two phone calls must be made to a party off the premises upon which the alarm system is installed.

FALSE ALARM: An alarm system signal, message, transmittal, or communication which results in a response by public safety personnel and for which no emergency situation exists or existed as determined by the responding police personnel. False alarms shall not include alarms caused by natural occurrences such as hurricanes, tornadoes, earthquakes, or other extraordinary circumstances determined by the alarm officer to be clearly beyond the control of the alarm user.

ONE PLUS DURESS ALARM: A security alarm system which permits the manual activation of an alarm signal by entering on a keypad a code that either adds the value of 1 to the last digit of a normal arm/disarm code (e.g., the normal arm/disarm code "1234" if entered as "1235" automatically activates the duress alarm feature) or that involves entering any incorrect final digit to a normal arm/disarm code.

PERSON: Any individual, partnership, association, corporation, limited liability company, trust, or organization of any kind, including a government entity or political subdivision thereof.

PUBLIC NUISANCE ALARM SYSTEM: Any alarm system which generates or transmits more than two (2) False Alarms within a calendar year.

SIA CONTROL PANEL STANDARD CP-01: The ANSI-American National Standard Institute approved Security Industrial Association - SIA CP-01 Control Panel Standard, as may be updated from time to time.

4-9-3: DUTIES OF ALARM INSTALLATION COMPANIES AND MONITORING:

(A) No Alarm Installation Company or Alarm Monitoring Business shall:
(1) Render any alarm system operational or transfer the control or operation thereof to the alarm system owner without first delivering to the customer written instructions regarding the proper use and operation of such alarm system including instructions regarding the procedure to deactivate the alarm system and reasonable measures that may be undertaken in order to avoid False Alarms.

(2) Fail to keep within the principal offices of the business or company a written copy of the instructions as required by the preceding section, for a period of at least three (3) years from the date of their issuance. Such instructions shall be dated and signed by the customer prior to the delivery thereof to the customer.

(3) Render an alarm system operational or transfer the ownership or control thereof to a customer without delivering to the customer a Customer Alarm Prevention Checklist in such form as may be approved by the Alarm Officer. Such checklist shall be current as of the date it is delivered to the customer and shall be signed and dated by the customer.

(4) Fail to keep at the principal offices of the business or company a copy of the signed checklist required by the preceding Section, for a period of at least three (3) years.

(5) To program an alarm system in a manner which is capable of sending One Plus Duress Alarms.

(6) To maintain, inspect or modify any alarm system capable of sending a One Plus Duress Alarm, without first rendering the One Plus Duress capability inoperable.

(7) To install any alarm system which may be activated by a single action, non-recessed button.

(8) To install any alarm system that is not compliant with SIA Control Panel Standard CP-01 or to install any alarm system which fails to include a designation clearly visible on the control panel thereof, indicating that such control panel has been tested and found compliant with such standard by the Underwriters Laboratory (UL) or other nationally recognized testing laboratory.

(9) To install any Automatic Dialing Device within an alarm system.

(10) To notify or request a police dispatch in response to a security alarm signal without making reasonable efforts to contact the owner of the premises where the alarm system is located or another person designated by such owner to receive such telephone calls.

(11) To fail to silence an alarm signal within fifteen (15) minutes after the receipt of notification that the alarm system has been triggered or activated in a residential structure or within thirty (30) minutes after receipt of notification that an alarm system within a commercial or industrial structure has been activated.

4-9-4: RESPONSIBILITIES OF ALARM USERS:

(A) No Alarm User shall:
(1) Use, operate, maintain or install an alarm system unless the alarm user has within his or her employ or retention a person who has been trained in the appropriate procedures to deactivate an alarm system signal and who is capable of deactivating an alarm system signal within fifteen (15) minutes after receipt of notification that the alarm system signal has been triggered.

(2) To allow any alarm system signal to continue for a period of more than fifteen (15) minutes after notification of the activation of the system if protecting a residential structure or within thirty (30) minutes after such activation if the alarm system is protecting a commercial or industrial structure.

(3) To operate a Public Nuisance Alarm without having a permit therefore issued in accordance with the provisions of this Chapter.

4-9-5: MAINTAINING A PUBLIC NUISANCE ALARM:

(A) No person shall maintain, operate, use or attempt to use a Public Nuisance Alarm System without having a valid Public Nuisance Alarm System Permit.

(B) Public Nuisance Alarm System Permits may be obtained from the office of the City Clerk upon payment as set from time to time by Resolution of Council.

Each Public Nuisance Alarm System Permit shall expire on December 31st of the calendar year in which it is issued. Each Public Nuisance Alarm System Permit shall automatically become void upon the triggering of an additional False Alarm and shall remain void until the additional permit fee is paid to the City Clerk.

(C) Whenever any alarm system is deemed a Public Nuisance Alarm System, the Alarm Officer, or his or her designee shall provide a notice to the owner or person in control of the premises. Such notice shall advise the owner or operator of such alarm system that the alarm system has been determined to be a Public Nuisance and that any operation thereof without obtaining a Public Nuisance Alarm system Permit pursuant to this Chapter will constitute a violation of this Chapter. Such notice shall be deemed given upon posting a written notice of such determination upon the premises where the alarm system is located or deposit thereof in the U. S. Mail, Certified Mail, Return Receipt Requested, Postage Pre-Paid and addressed to the owner or operator of such alarm system, if known, or addressed to the owner at the address shown on the records of the Bonneville County Assessor's Office for the premises where the alarm system is located.

4-9-6: PROHIBITED ALARM SYSTEMS:

(A) No person shall use or operate an automatic dialing device or any device programmed to initiate and deliver a message or signal to any telephone number belonging to the City of Idaho Falls or to any law enforcement dispatch services.

(B) No system shall have an entry or exit delay of less than 45 seconds.
4-9-7: VIOLATIONS:

(A) Any person who violates any provision of this Chapter shall be guilty of a misdemeanor.
CHAPTER 10
(Repealed)
CHAPTER 11
LAWN SPRINKLER AND WATER CONDITIONING LICENSES

SECTION:

4-11-1:  Definitions
4-11-2:  License Required
4-11-3:  License Fees
4-11-4:  Applications for Licenses
4-11-5:  License Expiration
4-11-6:  License Renewal
4-11-7:  Grounds for Revocation of License

4-11-1:  DEFINITIONS:  Certain words and phrases used in this Chapter are defined as follows:

LAWN SPRINKLER INSTALLER:  A person who installs lawn sprinkler systems as an employee of a lawn sprinkler contractor.

WATER CONDITIONER INSTALLER:  A person who installs water softeners, water conditioners or other devices that change the condition of the City-supplied water, and who is an employee of a water conditioner contractor.

LAWN SPRINKLER CONTRACTOR:  A person engaged in the business of installing lawn sprinkler systems.

LAWN SPRINKLER SYSTEM:  Any underground piping system used for outdoor irrigation purposes and connected to a potable water system.

WATER CONDITIONER CONTRACTOR:  A person engaged in the business of installing water softeners, water conditioners or any device that changes the condition of the City-supplied water. (Ord. 3019, 8-27-15)

4-11-2:  LICENSE REQUIRED:

(A)  A City license shall be required for every lawn sprinkler contractor and lawn sprinkler installer who installs, alters, or repairs a lawn sprinkler system.

(B)  A City license shall be required for every water conditioner contractor and water conditioner installer who installs, alters, or repairs water softeners, water conditioners or other devices that change the condition of City-supplied water. (Ord. 3019, 8-27-15)

4-11-3:  LICENSE FEES:  The fees for annual licenses and any renewal thereof required under this Chapter shall be in an amount set from time to time by Resolution of the Council. The fee for a license for a portion of a year shall not be prorated. No license fee or any portion of such fee shall be refundable. (Ord. 2964, 8-14-14; Ord. 3019, 8-27-15)
4-11-4: APPLICATIONS FOR LICENSES: The applications for a license required under this Chapter shall be in writing on a form provided by the City. Applications shall be filed with the Clerk accompanied by the applicable license fee. On receipt of a properly completed application and the applicable license fee, the Clerk shall forward the application to the Plumbing Inspector for review and recommendation for approval or denial. On receipt of the Inspector's recommendation, the Clerk shall present the application to the Council for its approval or denial. A license sought under this Chapter shall be granted or denied within sixty (60) days of the date the application is filed with the Clerk. (Ord. 3019, 8-27-15)

4-11-6: LICENSE EXPIRATION: A license issued under this Chapter shall expire at midnight local time on December 31 of the year for which it is issued. (Ord. 3019, 8-27-15)

4-11-7: LICENSE RENEWAL

Renewal: A person holding a current, valid license under this Chapter may renew their license by filing written application for renewal with the Clerk and paying the applicable renewal fee within ninety (90) days after the expiration of their current license. A renewal application received after such date shall be accompanied by the full license fee. (Ord. 3019, 8-27-15)

4-11-8: GROUNDS FOR REVOCATION OF LICENSE: A person licensed under this Chapter may have their license suspended or revoked if the license was obtained by fraud, or the licensee fails to comply with any of the provisions of this Chapter. (Ord. 3019, 8-27-15)
CHAPTER 12
ITINERANT MERCHANTS, MOBILE FOOD VENDORS, DOOR-TO-DOOR SALESMEN

SECTION:

4-12-1: Purposes
4-12-2: Garage Sale Defined
4-12-3: Itinerant Merchant Defined
4-12-4: Mobile Food Vendor Defined
4-12-5: Vehicle Defined
4-12-6: Itinerant Merchants License Required
4-12-7: Exceptions
4-12-8: License Fee
4-12-9: License Applications
4-12-10: Investigation Fee
4-12-11: Investigation of Applicant and Issuance of License
4-12-12: Bonding Requirement
4-12-13: Term of License
4-12-14: Unlawful Conduct
4-12-15: Display of License
4-12-16: License Nontransferable
4-12-17: Grounds for Revocation of License
4-12-18: Mobile Food Vendor License
4-12-19: License Applications
4-12-20: Issuance of License
4-12-21: License Fee
4-12-22: Location Restrictions
4-12-23: Mobile Food Vending in City Parks
4-12-24: Location Time Limits
4-12-25: Sales Vehicle Registration
4-12-26: Sales Vehicle Equipment
4-12-27: Traffic and Parking Regulations
4-12-28: Litter Control
4-12-29: Revocation of License
4-12-30: (Repealed)

4-12-1: PURPOSES: This Chapter has three purposes: (1) to protect the citizens from fraud, crime and unfair, deceptive or dishonest business practices by persons temporarily engaged in the business of selling goods, wares, merchandise and services within the City; (2) to protect the residents of the City from unwanted intrusions on the privacy of their homes; and (3) to protect the health, safety, aesthetics and general welfare of the City and its residents.

4-12-2: GARAGE SALE DEFINED: As used in this Chapter, a "garage sale" is a sale of new or used personal property, not more than three (3) days in duration and conducted not more frequently than once every six (6) months at the same location.

4-12-3: ITINERANT MERCHANT DEFINED: As used in this Chapter, an "itinerant merchant" is any person who sells or offers to sell any goods, wares, merchandise or services from any...
stand, vehicle, trailer, tent, rack or other shelter or structure not permanently affixed to real property or any person who sells or offers to sell any goods, wares, merchandise or services from any motel room, office, building, warehouse, shopping mall or other location with an intent to remain at that location for less than ninety (90) days. Execution or adoption of any lease agreement or other contract for the use of such location for a term of ninety (90) days or less, or with the ability to terminate or lease within such time period, shall be prima facie evidence of such intent.

4-12-4: MOBILE FOOD VENDOR DEFINED: As used in this Chapter, a "mobile food vendor" is a person who sells at retail food or beverages, to the public from any vehicle.

4-12-5: VEHICLE DEFINED: As used in this Chapter, "vehicle" shall have the same meaning as under Chapter 1, Title 49 of the Idaho Code.

4-12-6: ITINERANT MERCHANTS LICENSE REQUIRED: No person shall engage in the business of an itinerant merchant without first obtaining an itinerant merchants license from the City.

4-12-7: EXCEPTIONS: The itinerant merchant licensing and bonding requirements of this Chapter shall not apply to the following:

(A) Sales conducted pursuant to court order;

(B) The sale of Christmas trees;

(C) Garage sales;

(D) The sale of goods, wares, merchandise or services by any student group or religious, philanthropic or charitable organization exempt from taxation under 26 U.S.C. Section 501 and which has a local charter or sponsor located in the City;

(E) The sale of any goods, wares, merchandise or services by any person or organization appropriately licensed under any other provision of the City Code; or

(F) The sale of goods, wares or merchandise to a business establishment that intends to offer those items for resale.

4-12-8: LICENSE FEE: At the time of making application, applicants for an itinerant merchant’s license shall pay to the City Clerk a license fee in an amount from time to time by Resolution of the Council, plus an investigation fee as provided in this Chapter. The license fee shall be refunded if the license is denied. The investigation fee shall be nonrefundable. (Ord. 2964, 8-14-14)

4-12-9: LICENSE APPLICATIONS: Applications for an itinerant merchants license shall be in writing on a form furnished by the City and shall be filed with the City Clerk. Applications shall contain the following information:

(A) The name, physical description and address of the applicant, and if the applicant is a corporation, or partnership, association or other business entity, then also the names and residential addresses of all persons owning ten percent (10%) or more of the shares or assets of the entity;
(B) The names and residential addresses of all persons who will sell or offer for sale any goods, wares, merchandise or services;

(C) A brief description of the nature of the business and the goods or services to be sold;

(D) The address of the principal place of business of the applicant;

(E) The inclusive dates and times of day for which the license is desired;

(F) A description and license or registration numbers of each motor vehicle that will be used in connection with making sales, and the names of all persons who will be driving such motor vehicles, their driver's license numbers and the names of the states by which the licenses were issued;

(G) A statement of whether any business-related permit or license held by the applicant or any of the applicant's agents or employees has been revoked within the past five (5) years by any jurisdiction, and if so, where, when and why the revocation occurred;

(H) The applicant's social security or taxpayer identification number and state sales tax number;

(I) A statement of whether the applicant has been convicted of any crime other than a minor traffic violation, and if so, the nature, place and date of each such offense;

(J) A two inch by two inch (2" x 2") photograph of the applicant, or if a corporation, partnership, association or other organization, a similar photograph of the person submitting the application;

(K) A statement of all locations in the City where the goods, wares, merchandise or services will be sold;

(L) The names and addresses of the manufacturers or other persons or organizations supplying the goods to be sold or offered for sale.

4-12-10: INVESTIGATION FEE: At the time of filing an application for an itinerant merchant’s license, applicants shall pay an investigation fee in an amount set from time to time by Resolution of the Council, for the following:

(A) applicants who reside or have a principal place of business in Bonneville County;  

(B) applicants who reside or have a principal place of business outside Bonneville County, but within the State of Idaho; and

(C) applicants who reside or have a principal place of business outside the State of Idaho.
In the event an applicant makes application for an itinerant merchants license within sixty (60) days after the expiration of his or her such license for the preceding year, and no complaints have been made against such applicant within the term of such prior license and such prior license has not been revoked or suspended, no investigation fee shall be charged at the time of application. (Ord. 2964, 8-14-14)

4-12-11: INVESTIGATION OF APPLICANT AND ISSUANCE OF LICENSE:

(A) On receipt of the application and the license and investigation fees, the City Clerk shall forward the application to the Chief of Police, who shall make an investigation to verify the information in the application. The Chief of Police shall report his findings to the City Clerk and City Council as soon as reasonably possible, but no later than thirty (30) days after the application is filed with the City Clerk.

(B) On receipt of the report of the Chief of Police, the Clerk shall forward the application and the Chief's report to the City Council for its approval or denial.

(C) The City Council shall approve issuance of a license unless the applicant or any officer, agent or employee of an applicant has:

(1) Been convicted of any felony or crime of moral turpitude, in any jurisdiction, within five (5) years prior to the date of the application;

(2) Made a false statement on the application;

(3) Had any business-related permit or license revoked by any jurisdiction within five (5) years prior to the date of the application.

(D) Licenses issued under this Chapter shall show the name and address of the licensee and the dates of issuance and expiration of the license.

4-12-12: BONDING REQUIREMENT: Before any itinerant merchant’s license is issued, the applicant shall file with the City Clerk a surety bond in favor of the City or a cashier's check in an amount set from time to time by Resolution of the Council. The bond shall be in a form approved by the City Attorney, be executed by the applicant as principal and be issued by a surety licensed to engage in business in the State of Idaho. The bond shall be issued for a term coterminous with the term of the license. If the Council determines that the licensee has made a false statement on the license application, or if the licensee or any employee or agent of the licensee engages in any fraudulent, deceptive or unlawful business practice in connection with the conduct of the licensee's business or otherwise violates the provisions of this Chapter, then the Council may order the entire amount of the surety bond or cash bond forfeited. The Council may also order that the proceeds from the bond be paid over to any person damaged by the actions of the licensee. After the expiration of the license, the City Clerk, upon request of the licensee, shall return the surety bond or cash bond within six (6) months after the request for return, unless the Clerk has been notified of the pendency of any claim or cause of action against the bond, in which case, the Clerk shall return the bond within thirty (30) days after the final resolution of the claim or cause of action. (Ord. 2964, 8-14-14)
4-12-13: TERM OF LICENSE: The term of an itinerant merchant’s license shall commence on the date of issuance and shall end not later than 12:00 o'clock midnight on December 31 of the year in which the license is issued.

4-12-14: UNLAWFUL CONDUCT: No itinerant merchant shall do any of the following:

   (A) Engage in any fraudulent, deceptive or unlawful business practice;

   (B) Make any materially false statement or representation concerning the nature, quality or durability of any goods, wares, merchandise or services sold or offered for sale, knowing the statement to be false; or

   (C) Make any materially false or misleading statement on an application for a license under this Chapter.

4-12-15: DISPLAY OF LICENSE: The itinerant merchant’s license required by this Chapter shall be exhibited at all times in a place conspicuous to the public at all locations where any goods, wares, merchandise or services are sold or offered for sale.

4-12-16: LICENSE NONTRANSFERABLE: Licensees shall not allow their license to be used by any person other than their agents or employees for any purpose. Itinerant merchant's licenses shall be nontransferable and non-assignable.

4-12-17: GROUNDS FOR REVOCATION OF LICENSE: The City Council may revoke an itinerant merchant’s license for any of the following reasons:

   (A) The licensee or any of licensee's agents or employees engages in any fraudulent, deceptive or unlawful business practice in connection with licensee's business;

   (B) False statements on the license application;

   (C) The licensee or any of licensee's agents or employees violates any provision of this Chapter;

   (D) Revocation by any jurisdiction of any other business related license or permit held by licensee;

   (E) The licensee is convicted in any jurisdiction of any felony or crime of moral turpitude; or

   (F) Cancellation or termination of the bond required by this Chapter prior to the expiration of the license;

   (G) Failure to comply with the provisions of this Chapter.
4-12-18: MOBILE FOOD VENDOR LICENSE: No person shall engage in the business of a mobile food vendor without first obtaining a mobile food vendor license from the City.

4-12-19: LICENSE APPLICATIONS: Applications for mobile food vendor licenses shall be made at the office of the City Clerk on a form furnished by the City. The application shall state the applicant's full name and residential address, the business name under which the applicant will be operating and the address of the applicant's principal place of business, a brief description of the food to be sold, the applicant's social security number or taxpayer identification number and a description and the license or registration numbers of each vehicle from which sales will be made. The application shall be accompanied by the mobile food vendor license fee required by this Chapter.

4-12-20: ISSUANCE OF LICENSE: On receipt of a complete application for a mobile vendor license and the license fee, the City Clerk shall forward the application to the Chief of Police for review and recommendation for approval or denial. Within thirty (30) days from the date the application is filed with the City Clerk, the Chief of Police shall forward the recommendation to the Clerk. The Clerk shall forward the application and the Chief's recommendation to the City Council for its approval or denial. If the Council approves the application, the Clerk shall issue the license. If the Council denies the application, the license fee shall be refunded to the applicant.

4-12-21: LICENSE FEE: The fee for a mobile food vendor license shall be in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14)

4-12-22: LOCATION RESTRICTIONS: Mobile vendors and itinerant merchants making sales from vehicles operated on the City's public streets shall stop their vehicles at curbside before making any sales. Mobile vendors shall not make sales from vehicles parked, stopped or standing on public sidewalks of the City. Sales shall not be made to persons who are on public streets, but may be made to persons on public sidewalks.

4-12-23: MOBILE FOOD VENDING IN PUBLIC PLACES:

(A) Issuance of a mobile food vendor or itinerant merchant’s license shall not entitle the licensee to conduct business on any street, sidewalk or other location within any park owned or maintained by the City.

(B) No person shall conduct the business of a mobile food vendor within any park owned or maintained by the City except under a franchise contract approved by the City Council.

4-12-24: LOCATION TIME LIMITS: No mobile vendor or itinerant merchant shall make sales from any one location on a public street for more than two (2) consecutive hours.

4-12-25: SALES VEHICLE REGISTRATION: Any vehicle from which a mobile vendor or itinerant merchant makes sales shall be registered as required by State law.

4-12-26: SALES VEHICLE EQUIPMENT: Mobile vendors and itinerant merchants shall not operate, move, park, stop or stand any sales vehicle on the City streets unless the vehicle is equipped as required by State law.
4-12-27: TRAFFIC AND PARKING REGULATIONS: Mobile vendors and itinerant merchants shall comply with all State and City traffic and parking, stopping and standing laws, ordinances and regulations.

4-12-28: LITTER CONTROL: Any sales vehicles operated by a mobile food vendor shall be equipped with suitable trash container readily accessible to the public, in which the vendor's customers may deposit any litter, trash or waste related to the vendor's sales. Prior to moving a sales vehicle from a sales location, a mobile food vendor shall pick up and remove all litter, trash and waste related to the vendor's sales within a one hundred foot (100') radius of the sales vehicle.

4-12-29: REVOCATION OF LICENSE: The City Council may revoke a mobile food vendor license if the licensee violates any provision of this Chapter.

4-12-30: (Repealed):
(Ord. 2896, 03-08-12)
CHAPTER 13
PAWN BROKERS, SECONDHAND PRECIOUS METALS DEALERS, SECONDHAND STORES

SECTION:

4-13-1: Garage Sale Defined
4-13-2: Pawnbroker Defined
4-13-3: Precious Metals Defined
4-13-4: Secondhand Goods Defined
4-13-5: Secondhand Precious Metals Dealer Defined; Exception
4-13-6: Secondhand Storekeeper Defined; Exception
4-13-7: License Required
4-13-8: License Application
4-13-9: License Approval and Issuance
4-13-10: License Fees
4-13-11: Records to Be Kept
4-13-12: Records to Be Open for Inspection
4-13-13: Retention of Records; Time
4-13-14: Retention of Property
4-13-15: Compliance with Law
4-13-16: Prohibited Purchases
4-13-17: Revocation of License

4-13-1: GARAGE SALE DEFINED: As used in this Chapter, a "garage sale" is a sale of new or used personal property, not more than three (3) consecutive days in duration and conducted not more frequently than once every six (6) months at the same location.

4-13-2: PAWNBROKER DEFINED: As used in this Chapter, "pawnbroker" is a person who engages in the business of lending or advancing money on the security of personal property pledged or deposited in his or her possession.

4-13-3: PRECIOUS METALS DEFINED: As used in this Chapter, "precious metals" means gold, silver, platinum and their alloys.

4-13-4: SECONDHAND GOODS DEFINED: As used in this Chapter, “secondhand goods” are articles of personal property previously possessed and used by a person other than their current possessor, “Secondhand goods” shall not include operable motor vehicles, books, magazines, or pamphlets. (Ord. 2998, 4-09-15)

4-13-5: SECONDHAND PRECIOUS METALS DEALER DEFINED; EXCEPTIONS:

(A) Definition: As used in this Chapter, a "secondhand precious metals dealer" is a person who engages in the business of buying, selling, exchanging or trading old or used precious metal or secondhand goods containing any precious metal.

(B) Exceptions: The following shall not be considered secondhand precious metals dealers:
(1) Persons who in the ordinary course of business buy or sell uncast precious metals primarily for use in any manufacturing or photographic developing process, jewelry manufacture or repair, or dental restoration or repair.

(2) Persons who in the ordinary course of business accept or receive secondhand goods containing precious metals as consideration for the sale of new merchandise and who subsequently dispose of such secondhand goods in the same form as they existed at the time of their receipt.

4-13-6: SECONDHAND STOREKEEPER DEFINED; EXCEPTIONS:

(A) Definition: As used in this Chapter, a “secondhand storekeeper” is a person who engages in the business of buying, selling, exchanging, or trading secondhand goods.

(B) Exceptions:

(1) A person who sponsors or conducts garage sales shall not be considered a secondhand storekeeper.

(2) Persons and businesses who do not provide compensation of any kind in exchange for receipt of secondhand goods shall not be considered a secondhand storekeeper. (Ord. 2998, 4-09-15)

4-13-7: LICENSE REQUIRED: No person shall engage in the business of a pawnbroker, secondhand storekeeper or secondhand precious metals dealer without first obtaining a license issued by the City.

4-13-8: LICENSE APPLICATION:

(A) Applications for pawnbrokers, secondhand storekeepers and secondhand precious metals dealer’s licenses shall be made on a form provided by the City Clerk. The application shall state the applicant's name, residential address, business name, address of place of business, type of license applied for and a general description of the goods or materials to be purchased, sold, exchanged or traded. The relevant license fee shall accompany the application.

(B) To determine the suitability of prospective applicants for a license, the Chief of Police shall require a first time applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to § 67-3008, Idaho Code, and congressional enactment Public Law 92-544, the Chief of Police shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police, Bureau of Criminal Identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The Chief of Police is authorized to receive criminal history information from the Idaho State Police and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of applicants for a license under this section. As required by state and federal
law, further dissemination of other use of the criminal history information is prohibited. Fingerprinting shall not be required for a license renewal, unless fingerprints and criminal background history check have not been previously obtained or performed for the applicant. (Ord. 2440, 2-15-02)

4-13-9: LICENSE APPROVAL, DENIAL AND ISSUANCE:

Applications for licenses required under this Chapter shall be forwarded by the City Clerk to the City Council for its approval or denial. Upon approval of an application, the City Clerk shall issue the license. If a license application is denied by the City Council, the license fee shall be refunded to the applicant. A license may be denied upon proof that the licensee has violated any provision herein, has supplied any false or materially misleading information in his or her application, or has previously been convicted of any felony.

(Ord. 2920, 06-13-13)

4-13-10: LICENSE FEES: Fees for licenses issued under this Chapter shall be in an amount set from time to time by Resolution of the Council, for the following:

Pawnbroker;
Secondhand precious metals dealer; and
Secondhand storekeeper

4-13-11: RECORDS TO BE KEPT:

(A) All pawnbrokers, secondhand storekeepers and secondhand precious metals dealers shall keep and file with the Idaho Falls Police Department a digital copy of the following described records. All digital records shall be filed via the internet at a web site determined by the Police Department using software as may be determined by the Police Department. Such digital records shall be filed within seventy-two (72) hours after the time and date of the transaction. The digital records required for filing shall consist of the following records:

(1) An accurate description of all precious metals and personal property purchased, acquired or received.

(2) The name, residence, driver's license number or social security number of the person from whom any, precious metals or personal property is purchased, acquired or received.

(3) The date and place of the purchase, acquisition or reception.

(4) The date when such property is disposed of and the name and address of the person receiving the same.

(B) Notwithstanding the foregoing, records relating to the purchase or sale of used or secondhand clothing or audio or audio-visual media, computer software, gaming media or other electronic media in the form of used VCR tape recordings, CD-ROM's, DVD's or other similar
4-13-12: RECORDS TO BE OPEN FOR INSPECTION: All records required to be kept under this Chapter shall be made available for inspection by any police officer of the City during normal business hours.

4-13-13: RETENTION OF RECORDS; TIME: All records required to be kept under this Chapter shall be kept for not less than three (3) years.

4-13-14: DISPOSITION OF PROPERTY AFTER REPORTING:

Any person licensed under this Chapter may sell, trade, rent or otherwise dispose of any property acquired for the purpose of resale or other conveyance immediately after compliance with the recordkeeping and reporting requirements of this Chapter. Nothing herein shall require the retention of any firearm bearing a legible serial number, unless such serial number appears to have been altered or unless there is good cause to believe the firearm has been stolen from its lawful owner. (Ord. 2221, 1-19-97; Ord. 2920, 06-13-13)

4-13-15: COMPLIANCE WITH LAW: Persons licensed under this Chapter shall conduct their businesses in compliance with all applicable federal, state and City laws, ordinances and regulations.

4-13-16: PROHIBITED PURCHASES: No person licensed under this Chapter shall purchase, acquire, accept or receive in the ordinary course of business and for the purpose of resale or other conveyance any precious metals or personal property from any person who is under the age of eighteen (18) years or who is under the influence of alcohol, drugs or a controlled substance.

4-13-17: REVOCATION OF LICENSE: Any license issued under this Chapter may be revoked by the Council upon proof that the licensee has violated any provision herein, has supplied any false or materially misleading information in his or her application or has been convicted of any felony.
CHAPTER 14
SCRAP DEALERS

SECTION:

4-14-1: Scrap Defined
4-14-2: Scrap Dealer Defined
4-14-3: Scrap Yard Defined
4-14-4: License Required
4-14-5: License Application
4-14-6: License Approval and Issuance
4-14-7: License Fees
4-14-8: Records to be Kept; Content
4-14-9: Records to be Open for Inspection
4-14-10: Retention of Records; Time
4-14-11: Retention of Property
4-14-12: Storage of Scrap; Exceptions
4-14-13: Compliance with Law

4-14-1: SCRAP DEFINED: As used in this Chapter, "scrap" consists of used or old metal cable or wire; cordage; iron, copper, brass, lead, zinc, steel, aluminum and similar metals; glass; plastic; inoperable motor vehicles; used motor vehicle parts, supplies and accessories; inoperable machinery; used machine parts, supplies and accessories; used paper products, including but not limited to, newspapers and magazines; cardboard; rags or other fibrous material; lumber or other building materials; or any other used or old articles whose value is derived primarily from reclamation of its constituent parts or materials.

4-14-2: SCRAP DEALER DEFINED: As used in this Chapter, a "scrap dealer" is a person who engages in the business of purchasing, selling, exchanging, trading, recycling and/or storing scrap.
4-14-3: SCRAP YARD DEFINED; EXCEPTIONS:

(A) Definition: As used in this Chapter, a "scrap yard" is a parcel of land or a portion thereof where scrap is purchased, sold, exchanged, traded, disassembled, recycled, stored, maintained or kept.

(B) Exception: If the activities listed in subsection (A) of this are conducted entirely within a completely enclosed building, the building shall not be considered a scrap yard.

4-14-4: LICENSE REQUIRED: No person shall engage in the business of a scrap dealer without first obtaining a license issued by the City.

4-14-5: LICENSE APPLICATION: Applications for scrap dealer’s licenses shall be made on a form provided by the City Clerk. The application shall state the applicant's name, residential address, business name, address of place of business and a general description of the goods and/or materials to be purchased, sold, exchanged, traded, recycled or stored. The license fee shall accompany the application.

4-14-6: LICENSE APPROVAL AND ISSUANCE: Applications for licenses required under this Chapter shall be forwarded by the City Clerk to the City Council for its approval or denial. Upon approval of an application, the City Clerk shall issue the license. If a license application is denied by the City Council, the license fee shall be refunded to the applicant.

4-14-7: LICENSE FEE: Fees for licenses issued under this Chapter shall be in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14)

4-14-8: RECORDS TO BE KEPT; CONTENT: All scrap dealers shall keep any records required to be kept under Idaho Code Section 54-2702.

4-14-9: RECORDS TO BE OPEN FOR INSPECTION: All records required to be kept under this Chapter shall be made available for inspection by any police officer of the City during normal business hours. No scrap dealer or any of its agents or employees shall refuse to permit any police officer of the City to inspect such records.

4-14-10: RETENTION OF RECORDS; TIME: All records required to be kept under this Chapter shall be kept for not less than three (3) years.

4-14-11: RETENTION OF PROPERTY:

(A) Retention Requirement: No person licensed under this Chapter shall sell, trade, rent, recycle, destroy or otherwise dispose of any scrap with a value in excess of $500 and acquired for the purpose of resale or other conveyance and which is identified by a manufacturer affixed identification or serial number for a period of fifteen (15) days from the date of receiving the scrap.

4-14-12: STORAGE OF SCRAP; EXCEPTIONS:

(A) Storage Requirements: Scrap dealers shall store all scrap in their possession only in a completely enclosed building or in a scrap yard. If scrap is stored in a scrap yard, the scrap
yard shall be separated from any abutting public street or public sidewalk by an opaque fence or masonry wall. Scrap stored in a scrap yard shall not be stored or stacked to a height exceeding the height of the opaque fence or masonry wall.

(B) Exceptions: An opaque fence or masonry wall as described in this section shall not be required if all scrap stored in a scrap yard is stored in fully enclosed and operable semi-trailers as defined under the Idaho Code or where the scrap consists only of the following materials: securely baled newspapers, magazines or similar paper products; securely baled, crushed cardboard containers or similar cardboard products; crushed and containerized aluminum cans or similar aluminum products; containerized glass bottles or jars or similar glass products; or crushed and containerized plastic bottles or similar plastic products.

4-14-13: COMPLIANCE WITH LAW: Persons licensed under this Chapter shall conduct their businesses in compliance with all applicable federal, state and City laws, ordinances and regulations.
CHAPTER 15  
PUBLIC TRANSPORTATION

SECTION:

4-15-1: Purpose
4-15-2: Definitions
4-15-3: Exemptions
4-15-4: Public Transportation License Required
4-15-5: Application
4-15-6: License Fees
4-15-7: Insurance Required
4-15-8: Vehicle Inspection
4-15-9: License Documents Subject To Inspection
4-15-10: Smoking Prohibited While Public Transportation Service Is Being Provided
4-15-11: Operator’s Photo Identification To Be Prominently Displayed
4-15-12: Public Transportation Service Vehicles To Be Prominently Marked
4-15-13: Fares to be Prominently Displayed
4-15-14: Mandatory Drug Testing; Denial or Revocation
4-15-15: Investigation
4-15-16: Denial of License
4-15-17: Appeals
4-15-18: Penalties

4-15-1. Purpose.

The purpose of this Chapter is to regulate every person performing Public Transportation Service as herein defined. (Ord. 2982, 12-18-14)


For purposes of this Chapter, the following terms, phrases, and words shall have the following meanings:

A. Bus. Any motor vehicle, other than a courtesy vehicle, limousine, public conveyance or taxicab, capable of seating ten (10) or more passengers, not including the operator, and used to carry passengers for hire.

B. Courtesy Vehicle. Any motor vehicle, other than a bus, limousine, public conveyance or taxicab, used primarily to transport persons and baggage to or from any hotel, motel, lodge or any other similar tourist accommodations.

C. Public Conveyance. Any vehicle, other than a bus, courtesy vehicle, limousine, or taxicab, used or offered on a regular or continuing basis, whether or not for hire, to transport persons within the City.

D. Public Transportation Operator. A person who provides a Public Transportation Service utilizing a bus, courtesy vehicle, public conveyance or taxicab.
E. Public Transportation Owner. A person who owns or has a financial or other property interest in a bus, courtesy vehicle, public conveyance, or taxicab.

F. Public Transportation Service. Engaging in the business of carrying or transporting any person(s) for compensation within twenty-five (25) miles of City limits, with or by means of a bus, courtesy vehicle, public conveyance or taxicab, by prearranged appointment, at hourly, daily, or weekly rates as agreed upon between the passenger and the motor vehicle operator or motor vehicle owner, and where such is not operating on a fixed route or not operating adjunct to a fixed route (such as Dial-A-Ride or paratransit).

G. Taxicab. Any motor vehicle, other than a bus, courtesy vehicle, or limousine, used to carry passengers for hire. (Ord. 2982, 12-18-14).


A. Public Transportation Owner License. The Public Transportation Owner licensing provisions of this Chapter shall not apply to the following types of motor vehicles:

(1) Motor vehicles used in interstate or foreign commerce.

(2) Motor vehicles for which a valid license or permit has been issued under the Idaho Single State Registration System (SSRS), as issued by the State of Idaho Division of Motor Vehicles, One Stop Shop.

(3) Motor vehicles owned and operated by a school or school district and used exclusively to transport students or teachers to and from educational institutions or to and from approved school activities.

(4) Motor vehicles operated through or into the City incidental to the conduct of a public conveyance business located outside the City.

(5) Motor vehicles used primarily to transport members of the motor vehicle owner's family or agents or employees of such motor vehicle's owner.

(6) Motor vehicles owned by or under contract with a regional Public Transportation authority authorized to operate within Bonneville County, Idaho, pursuant to the provisions of Chapter 21, Title 40, Idaho Code, such as Targhee Regional Public Transportation Authority (TRPTA), Dial-A-Ride, and the like.

(B) Public Transportation Operator License. The operator's licensing provisions of this Chapter shall not apply to the following kinds of Public Transportation Service operators:

(1) Operators of motor vehicles used in interstate or foreign commerce.

(2) Operators of motor vehicles owned and operated by a school or school district and used exclusively to transport students or teachers to and from educational institutions or to and from approved school activities
(3) Operators of motor vehicles operated through or into the City incidental to the conduct of an interstate or intrastate public conveyance business.

(4) Operators of motor vehicles used primarily to transport members of the motor vehicle owner's family or agents or employees of such motor vehicle’s owner. (Ord. 2982, 12-18-14).

4-15-4. Public Transportation License Required.

Every person who performs a Public Transportation Service in the City, as defined in this Chapter, shall first obtain a Public Transportation Operator’s license or a Public Transportation Owner’s license, as required by this Chapter. (Ord. 2982, 12-18-14).

4-15-5. Application.

Every person, before providing Public Transportation Service, shall apply to the City for a Public Transportation Operator’s license or Public Transportation Owner’s license, as required by this Chapter, on the application form furnished by the City. Every applicant shall supply all information requested on the application form, which shall, among other things, include the full name, date of birth, and residential address of the applicant. The application also shall state whether the applicant holds a valid, unrevoked chauffeur's license issued by the State and the class of such chauffeur’s license. The applicant shall consent to being photographed and fingerprinted as a condition for issuance of a license. Every applicant shall supply a full set of fingerprints with every application, except that fingerprints will not be required for any license renewal that occurs within three (3) years of the latest submittal of fingerprints by the applicant. It shall be applicant's responsibility to pay for the actual cost or fee of fingerprinting. The application shall be verified by the applicant before a person authorized to administer oaths. The application shall be submitted to the Clerk together with a nonrefundable application fee in an amount set from time to time by Resolution of the Council.

The City, upon receipt of a completed application form, fingerprints, payment of the proper Public Transportation Service license fees, and other required information, as specified, and upon compliance with the requirements of this Chapter, shall issue a Public Transportation Operator’s license or a Public Transportation Owner’s license. (Ord. No. 2461, 10-10-02; Ord. No. 2498, 07-24-03; Ord. 2982, 12-18-14)


Any person providing Public Transportation Service shall pay an annual Public Transportation Service Operator’s or Owner’s license fee a fee in an amount set from time to time by Resolution of the Council. A license shall be issued for a period of three (3) months or longer and shall expire before midnight on December 31st of each year.

(Ord. No. 2461, 10-10-02; Ord. No. 2498, 07-24-03; Ord. 2982, 12-18-14)


No person shall provide a Public Transportation Service without public liability and property damage insurance in some good and reliable insurance company for the vehicle being utilized for such public
transportation service, with combined single limits of Three Hundred Thousand ($300,000) Dollars, or with split limits of not less than One Hundred Thousand ($100,000) Dollars for personal injuries to one (1) person, and not less than Three Hundred Thousand Dollars ($300,000) for personal injuries caused by any one (1) accident, and not less than Fifty Thousand ($50,000.00) Dollars for property damage caused by any one (1) accident. No person shall provide a Public Transportation Service without underinsured and uninsured motorist insurance for the vehicle being utilized in such Public Transportation Service.

The City shall not issue a license to any applicant for a Public Transportation Operator’s or Public Transportation Owner’s license until the applicant has furnished proof satisfactory to the Clerk that insurance of the type and in the amount required by this Chapter has been purchased for the vehicle to be utilized in such public transportation service and that the City has been made an insurance certificate holder in such insurance.

(Ord. 2494, 6-26-03; Ord. 2964, 8-14-14; Ord. 2982, 12-18-14)


The Chief of Police or designee shall inspect every motor vehicle to be utilized to provide Public Transportation Service prior to such use and at any time there is reason to believe that motor vehicle inspection is warranted. (Ord. 2982, 12-18-14)

4-15-9. License Documents Subject To Inspection.

Any person providing a Public Transportation Service shall tender the relevant Public Transportation Services License, insurance policies, vehicle registration, driver’s license, and fair information, to the administrative authority of the City, including a peace officer, for examination, upon request. (Ord. 2982, 12-18-14)

4-15-10. Smoking Prohibited While Public Transportation Service Is Being Provided.

Smoking in motor vehicles regulated by this Chapter shall be prohibited at all times any passenger is present during the provision of Public Transportation Service. (Ord. 2982, 12-18-14)

4-15-11. Operator’s Photo Identification To Be Prominently Displayed.

Any person providing Public Transportation Service shall display his or her City-issued photo identification in a place where it can be seen by every passenger at all times while such service is being provided. (Ord. 2982, 12-18-14)

4-15-12. Public Transportation Service Vehicles To Be Prominently Marked.

Motor Vehicles regulated under this Chapter, shall, at all times where Public Transportation Services are provided, be prominently marked as a bus, courtesy vehicle, public conveyance, or taxicab.
Marking may be accomplished by a means of a temporary sign, magnetic sign, permanent sign, overhead light, paint, etc. Such marking may be displayed inside or outside of the vehicle and shall be of a font size and type that can be seen clearly from at least twenty feet (20’) from the outside of the motor vehicle used for Public Transportation Services. (Ord. 2982, 12-18-14)

4-15-13. Fares to be Prominently Displayed.

Except where pre-paid Public Transportation Services are being provided, any person providing Public Transportation Services shall, at all times, prominently display all fares for such services. All fares shall immediately be made available to any person who requests them. No person providing Public Transportation Services shall charge any fare for such services unless such fare is prominently displayed and is immediately available to a person requesting such fares to be charged. (Ord. 2982, 12-18-14)

4-15-14. Mandatory Drug Testing; Denial or Revocation.

(A) Every person licensed under this Chapter who is involved in an accident resulting in injury to or death of any person, while providing Public Transportation service, shall submit to one (1) or more tests as may be required to determine the amount of alcohol, narcotics, prescription and non-prescription drugs are present in such licensed person. Any such required test(s) shall be at such licensed person's own expense.

(B) If a required test shows the presence of illegal drugs, alcohol in excess of the legal limit established in Idaho Code Title 18, Chapter 80, prescription drugs used other than as prescribed, or evidence of intoxicants, such person's license shall be immediately revoked. Refusal to submit to any test required shall result in the immediate revocation of the Public Transportation Operator’s license. Following revocation under this subsection, no Public Transportation Operator’s license shall be granted until five (5) years immediately following the last violation of this subsection. (Ord. 2982, 12-18-14)


Before any license shall be issued under this Chapter, the City shall complete a background check of every applicant.

Such background check may utilize the fingerprints submitted. Any background check requests made to the Federal Bureau of Investigation shall be conducted pursuant to applicable law, including, but not limited to, Idaho Code Section 67-3008, as amended. The background check may include the statewide criminal identification bureau; the Federal Bureau of Investigation (FBI) criminal history; the National Crime Information Center (NCIC); the statewide child abuse registry; sex offender register regional record check; and/or other inquiries as deemed necessary to carry out the intent of this Chapter.

(Ord. 2905, 06-28-13; Ord. 2964, 08-14-14; Ord. 2982, 12-18-14)


No Public Transportation Operator license shall be issued:
(A) Where the applicant or licensee has:

1. Been found guilty of, plead guilty to, received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or admitted that sufficient evidence exists which could be likely to convince a judge or jury to find the applicant or licensee to be guilty beyond a reasonable doubt, or any substantially similar provision of foreign criminal violation, notwithstanding the form of judgment(s):


   b. The sexual abuse of a child under sixteen years of age, Section 18-1506, Idaho Code.

   c. The ritualized abuse of a child under eighteen years of age, Section 18-1506A, Idaho Code.

   d. The sexual exploitation of a child, Section 18-1507 or 18-1507A, Idaho Code.

   e. Lewd conduct with a child under the age of sixteen years, Section 18-1508, Idaho Code.

   f. The sale or barter of a child for adoption or other purposes, Section 18-1511, Idaho Code.

   g. Murder in any degree, Section 18-4001 or 18-4003, Idaho Code.

   h. Assault with intent to murder, Section 18-4015, Idaho Code.

   i. Voluntary manslaughter, Section 18-4006, Idaho Code.

   j. Rape, Section 18-6101 or 18-6108, Idaho Code.

   k. Incest, Section 18-6602, Idaho Code.

   l. Forcible sexual penetration by use of foreign object, Section 18-6608, Idaho Code.

   m. Abuse, neglect or exploitation of a vulnerable adult, Section 18-1505, Idaho Code.


   o. Crimes against nature, Section 18-6605, Idaho Code.

q. Mayhem, Section 18-5001, Idaho Code.

r. Poisoning, Section 18-4014 or 18-5501, Idaho Code.

s. Robbery, Section 18-6501, Idaho Code.

t. Stalking in the first degree, Section 18-7905, Idaho Code.

u. Video voyeurism, Section 18-6609, Idaho Code.


w. Inducing individuals under eighteen years of age into prostitution, Section 18-5609, Idaho Code.

x. Inducing a person under eighteen years of age to patronize a prostitute, Section 18-5611, Idaho Code.

y. Any felony punishable by death or life imprisonment.

z. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

2. Been classified as a voluntary patient or involuntary patient pursuant to Chapter 3, Title 66, Idaho Code, or similar provision in another jurisdiction, unless:

   a. Such person has been released from, and is no longer under, any form of treatment in relation to such classification, and

   b. Such person has been examined by at least one (1) professional licensed to evaluate mental health and such professional certifies that the person is no longer mentally ill and presents no threat or danger to any child. Such examination shall not be at City expense.

(B) Where the applicant or licensee has:

1. Been found guilty of, plead guilty to, or received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or any substantially similar provision of foreign criminal violation, notwithstanding the form of judgment(s) for any offense involving neglect or any physical injury to, or other abuse of a child, or any of the following offenses or a similar provision in another jurisdiction, for a period of five (5) years immediately preceding the date of application for license or renewal:

   a. Aggravated assault, Section 18-905, Idaho Code.

   b. Aggravated battery, Section 18-907(1), Idaho Code.


e. Forgery of a financial transaction card, Section 18-3123, Idaho Code.

f. Fraudulent use of a financial transaction card or number, Section 18-3124, Idaho Code.

g. Forgery or counterfeiting, Chapter 36, Title 18, Idaho Code.

h. Misappropriation of personal identifying information, Section 18-3126, Idaho Code.

i. Insurance fraud, Section 41-293, Idaho Code.

j. Damage to or destruction of insured property, Section 41-294, Idaho Code.

k. Public assistance fraud, Section 56-227, Idaho Code.


m. Attempted strangulation, Section 18-923, Idaho Code.

n. Misdemeanor injury to a child, Section 18-1501(2), Idaho Code.

o. Felony domestic violence, Section 18-918, Idaho Code.

p. Any violation (felony or misdemeanor) of the Uniform Controlled Substances Act, Chapter 27, Title 37, Idaho Code.


r. Disseminating obscene material to minors, as defined in Sections 18-1513 through 18-1515, Idaho Code.

s. Arson, as defined in Sections 18-801 through 18-804, Idaho Code.

t. Transporting a minor in a motor vehicle while under the influence, Section 18-1501(3), Idaho Code.

u. Driving without privileges, Section 18-8001, Idaho Code.

v. Driving under the influence of alcohol, drugs, or other intoxicating substances, Section 18-8004, Idaho Code.
w. Persons under twenty one (21) years of age with less than point zero eight (0.08) alcohol concentration, Section 18-8004A, Idaho Code.

x. Driving under the influence with excessive alcohol concentration, Section 18-8004C, Idaho Code.

y. Any person who pleads guilty to or is found guilty of a violation of the provisions of Section 18-8004(1)(a), Section 18-8005, Idaho Code.

z. Aggravated driving while under the influence of alcohol, drugs, or any other intoxicating substances, Section 18-8006, Idaho Code.

aa. Leaving scene of accident resulting in injury or death, Section 18-8007, Idaho Code.

bb. Reckless driving, Section 49-1401(1), Idaho Code.

c. Any person who is eighteen (18) years of age or older who sells, gives, or furnishes, or causes to be sold, given, or furnished, alcoholic beverages, including any distilled spirits, beer or wine, to a person under the age of twenty one (21) years, Section 23-603, Idaho Code.

dd. Misdemeanor theft as defined in Title 18, Chapter 24 of the Idaho Code.

ee. Any felony as defined by Idaho Code, Sections 18-111 and 18-111A, other than those listed in Subsection A.1. hereinabove.

ff. Any crime of physical violence against persons, other than those listed in Section A.1. hereinabove.

gg. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.

C. To any applicant or licensee who has supplied false or misleading information, failed or refused to provide or to disclose information required on the application form or by this Chapter, failed to disclose a suspension or revocation of a driver’s license, or refused to authorize the investigation required herein. No such applicant or licensee shall be able to apply to receive a license under this Chapter for a period of less than six (6) months following the date of the denial or revocation of the Transportation Operator’s license under this Subsection or for a period of six (6) months following the date that the Clerk became aware of disqualifying information, whichever is later in time.

D. 1. To any Public Transportation licensee who has violated any of the provisions of this Chapter during Public Transportation licensure. Violation of any provision of this Chapter during Public Transportation licensure, shall result in immediate and automatic revocation of the Public Transportation Operator’s license. Such revocation of the Public Transportation Operator’s license shall be effective as of the date of such violation. No such person shall be qualified to apply to receive a Public Transportation license under this Chapter for a period of less than six (6) months following
the date of the revocation of the Public Transportation Operator’s license under this Subsection or for a period of six (6) months following the date the Clerk became aware of such information, whichever is later in time, unless otherwise provided in this Chapter.

2. Effect of Driver’s License Suspension or Revocation. Suspension or revocation of the driver’s license held by any licensed Public Transportation Operator shall result in the immediate and automatic revocation of such Public Transportation Operator’s license, effective as of the date of such driver’s license suspension or revocation. No such person shall be qualified to apply to receive a Public Transportation license under this Chapter for a period of less than six (6) months following the date of full reinstatement of the driver’s license or for a period of not less than six (6) months following the date the Clerk became aware of such driver’s license suspension or revocation, whichever is later in time.

E. Where an applicant or licensee does not meet the conditions of licensure in this Chapter. (Ord. 2982, 12-18-14)

4-15-17. Appeals.

A. 1. Any person aggrieved by the action of denial, suspension or revocation of the license by the Clerk for a reason other than disqualification under Subsection (A) or (B) of the “Denial of License” section of this Chapter, shall have the right of appeal to the Council pursuant to Chapter 1 of Title 4 of this Code.

2. If a license application is revoked or denied because of disqualification of the Applicant or Licensee under Subsection (A) or (B) of the “Denial of License” section of this Chapter, such disqualification shall not be waived. Review of revocation or denial of a license because of disqualification of the Applicant or Licensee under Subsection (A) of the “Denial of License” section of this Chapter shall be limited to a review of whether the information upon which such denial or revocation was based is true and accurate. (Ord. 2964, 8-14-14; Ord. 2982, 12-18-14).


A. Any person violating any provision of this Chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished pursuant to this Code and the Idaho Code.

B. Any person violating any provision of this Chapter shall have any current Public Transportation Service license revoked. Upon proof of eligibility following revocation, such person shall be issued a Public Transportation Service license, unless otherwise prohibited by this Chapter. (Ord. 2982, 12-18-14).
CHAPTER 16
ADULT BUSINESSES

SECTION:

4-16-1: Purpose and Intent
4-16-2: Definitions
4-16-3: Establishment and Classification Businesses
4-16-4: Measurement of Distance
4-16-5: Location of Sexually Oriented Businesses
4-16-6: Regulations Governing Existing Sexually Oriented Businesses
4-16-7: Injunction
4-16-8: Sexually Oriented Business Permit: Purpose and Intent
4-16-9: Permit Required
4-16-10: Investigation and Application
4-16-11: Issuance of Permit
4-16-12: Annual Permit Fee
4-16-13: Inspection
4-16-14: Expiration of Permit
4-16-15: Suspension of Permit
4-16-16: Relocation of Permit
4-16-17: Judicial Review of Permit Denial, Suspension or Revocation
4-16-18: Transfer of Permit
4-16-19: Sexually Oriented Business Employee License
4-16-20: Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos in Video Booths
4-16-21: Prohibition Regarding Minors and Sexually Oriented Businesses
4-16-22: Advertising and Lighting Regulations
4-16-23: Hours of Operation
4-16-24: Public Nudity Prohibited
4-16-25: Prohibition of Live Adult Entertainment
4-16-26: Additional Criminal Prohibitions for the Operation of a Sexually Oriented Business Without a Valid Permit
4-16-27: Exemptions
4-16-28: Criminal Penalties and Additional Legal, Equitable, and Injunctive Relief
4-16-29: Immunity from Prosecution
4-16-30: Scope and Interpretation

4-16-1 PURPOSE AND INTENT: The purpose of this Chapter is to regulate Sexually Oriented Businesses which sell, display, or distribute indecent materials, or which sponsor, exhibit or engage in conduct, which is indecent, but which is not obscene such as to be prohibited by state law. It is also the purpose and intent of this Chapter to regulate Sexually Oriented Businesses to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent any deleterious location and concentration of Sexually Oriented Businesses within the City, thereby reducing or eliminating the adverse secondary effects from such Sexually Oriented Businesses. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually explicit materials.
oriented materials. Similarly, it is not the intent nor effect of this Chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of the Chapter to condone or legitimize the distribution of obscene material.

4-16-2: DEFINITIONS: Certain terms used in this Chapter shall have the meaning ascribed below:

ADULT ARCADE: An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, computers, or other similar image producing machines, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, DVD’s, CD-ROMs, slides, computer-generated images, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas."

ADULT BOOKSTORE, ADULT NOVELTY STORE OR ADULT VIDEO STORE: A commercial establishment which has significant or substantial portion of its stock-in-trade or derives a significant or substantial portion of its revenues or devotes a significant or substantial portion of its interior business or advertising to the sale, rental for any form of consideration, of any one or more of the following:

(A) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, DVD’s, CD-ROMs, or other visual representations which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas";

(B) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

(C) An establishment may have other principal business purposes that do not involve the offering for sale rental or viewing of materials depicting or describing "Specified Sexual Activities" or "Specified Anatomical Areas," and still be categorized as adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as one of its business purposes is offering for sale or rental, for some form of consideration, the specified materials which depict or describe "Specified Anatomical Areas" or "Specified Sexual Activities." For the purpose determining whether a significant or substantial portion of the stock in trade or revenues consist of or is derived from the sale of materials which depict or describe “Specified Sexual Activities” or “Specified Anatomical Areas,” the amount of such stock in trade or revenues shall be compared to the aggregate amount of revenues derived from the sale of all such materials sold or displayed and the revenues or amount of stock in trade derived from or consisting of all materials described in Section 4-16-2(A), subsections 2.a. and b. hereof, over a period of at least one month.

ADULT CABARET: A nightclub, bar, restaurant "bottle club," juice bar or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude or in a state of nudity or semi-nude; (b) live performances which are characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities," or (c) films, motion
pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas."

ADULT MOTEL: A motel, hotel or similar commercial establishment which: (a) offers public accommodations, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, DVD’s, CD-ROMs, or other photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities" or "Specified Anatomical Areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television, or (b) offers a sleeping room for rent for a period of time less than ten (10) hours; or (c) for any form of consideration, allows a tenant or occupant to sub-rent the sleeping room for a period of less than ten (10) hours.

ADULT MOTION PICTURE THEATER: A commercial establishment where films, motion pictures, video cassettes, slides, DVD’s, CD-ROMs, or similar photographic reproductions which are characterized by the depiction or description of "Specified Sexual Activities," or "Specified Anatomical Areas," are shown for any form of consideration.

ADULT THEATER: A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or live performances which are characterized by exposure of "Specified Anatomical Areas," or by "Specified Sexual Activities."

COUCH OR STRADDLE DANCE: An employee of the establishment intentionally touching or coming within ten (10) feet of any patron while engaged in the display or exposure of any "Specified Anatomical Area," or any "Specified Sexual Activity."

EMPLOYEE: A person who works or performs in and/or for a Sexually Oriented Business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business.

ESCORT: A person who, for any form of consideration, agrees or offers to act as a companion or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for or dance with another person.

ESCORT AGENCY: A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT: "Establishment" means and includes any of the following:

(A) The opening or commencement of any such business as a new business;

(B) The conversion of an existing business, whether or not a Sexually Oriented Business, to any of the Sexually Oriented Businesses defined in this Chapter;

(C) The addition of any of the Sexually Oriented Businesses defined in this Chapter to any other existing Sexually Oriented Business; or
(D) The relocation of any such Sexually Oriented Business.

LIVE ADULT ENTERTAINMENT: Any exhibition, dance, or performance for consideration by a person who appears nude or semi-nude, or a performance which is characterized by the exposure of "Specified Anatomical Areas" or by "Specified Sexual Activities,” including the performance of a “Straddle” or “Couch” dance.

MASSAGE PARLOR: Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment manipulation of the human body which occurs as a part of or in connection with "Specified Sexual Activities,” or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "Specified Anatomical Areas.” The definition of Sexually Oriented Businesses shall not include the practice of massage in any licensed hospital, nor by any employee of a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, massage therapist, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semi-professional or professional athlete or athletic team or school athletic program.

NUDE MODEL STUDIO: Any place where a person, who regularly appears in a state of nudity or displays "Specified Anatomical Areas," is provided for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.

NUDITY OR STATE OF NUDITY: The appearance of human bare buttock, anus, male genitals, female genitals, or the areola or nipple of the female breast; or a state of dress which fails to opaquely and fully cover a human buttocks, anus, male or female genitals, pubic region or areola or nipple of the female breast.

OPERATOR: The owner, permit holder, custodian, manager, operator or person in charge of any permitted or licensed premises.

PERMITTED OR LICENSED PREMISES: Any premises that requires a license and/or permit and that is classified as a Sexually Oriented Business.

PERMITTEE AND/OR LICENSEE: A person in whose name a permit and/or license to operate a Sexually Oriented Business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

PERSON: An individual, proprietorship, partnership, corporation, association, or other legal entity.

PUBLIC BUILDING: Any building owned, leased or held by the United States, the state, the county, the city, any special district, school district, or any other agency or political subdivision of the state or the United States, which building is used for governmental purposes.

PUBLIC PARK OR RECREATION AREA: Public land which has been designated for park or recreational activities including but not limited to a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, pedestrian/bicycle paths, open space, wilderness.
areas, or similar public land within the city which is under the control, operation, or management of the city park and recreation authorities.

PUBLIC PLACE: All outdoor places owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including but not limited to places of entertainment, taverns, restaurants, clubs, theaters, dance halls, banquet halls, party rooms or halls limited to specific members, restricted to adults or to patrons invited to attend, whether or not an admission is charged. The term does not include private rooms used primarily for residential purposes, hotel rooms or other private places used for human habitation or bona fide dressing rooms or restrooms.

RELIGIOUS INSTITUTION: Any church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities.

RESIDENTIAL USE: A single family dwelling, duplex, townhouse, multiple family, or mobile park or subdivision and campground or other use characterized by its devotion to human habitation, excluding hotels, motels, boarding establishments or similar commercial establishments.

RESIDENTIAL DISTRICT: Any district established by the Idaho Falls Zoning Ordinance which is characterized by residential uses.

SCHOOL: Any public or private educational facility including but not limited to child day care facilities, nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

SEMI-NUDE: A state of dress in which clothing covers no more than the genitals, pubic region, and areolae of the female breast, as well as portions of the body covered by supporting straps or devices.

SEXUAL ENCOUNTER ESTABLISHMENT: A business or commercial establishment, that as one of its primary business purposes, offers for any form of consideration, a place where two or more persons may congregate, associate, or consort for the purpose of "Specified Sexual Activities" or the exposure of "Specified Anatomical Areas" or activities when one or more of the persons is in a state of nudity or semi-nude. The definition of Sexually Oriented Businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SEXUALLY ORIENTED BUSINESS: An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult novelty shop, adult theater, adult video store, escort agency, massage parlor, nude model studio, or sexual encounter establishment.

SIGNIFICANT OR SUBSTANTIAL: At least twenty-five percent (25%).

SPECIFIED CRIMINAL ACT: Any sexual crimes against children, sexual abuse, rape or crimes connected with another Sexually Oriented Business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations.
SPECIFIED ANATOMICAL AREAS: "Specified Anatomical Areas," as used in this Chapter means and includes any of the following:

(A) Less than completely and opaquely covered human genitals, pubic region, anus, or female breasts below a point immediately above the top of the areolae; or

(B) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES: "Specified Sexual Activities," as used in this Chapter, means and includes any of the following:

(A) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts for any purpose other than for medical or therapeutic purposes by a licensed medical practitioner.

(B) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(C) Masturbation, actual or simulated; or

(D) Human genitals in a state of sexual stimulation, arousal or tumescence;

(E) Excretory functions as part of or in connection with any of the activities set forth in subdivisions (A) through (D) of this Chapter.

SUBSTANTIAL ENLARGEMENT OF A SEXUALLY ORIENTED BUSINESS: An increase in the floor areas occupied by the business by more than fifteen percent (15%), as the floor areas exist on the effective date of the Ordinance adopting this Chapter.

TRANSFER OF OWNERSHIP OR CONTROL OF A SEXUALLY ORIENTED BUSINESS: Means and includes any of the following:

(A) The sale, lease or sublease of the business;

(B) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange or similar means;

(C) The establishment of a trust, gift or other similar legal devise which transfers ownership or control of the business, except for transfer by bequest or other operation of law upon the death of a person possessing the ownership or control.

ZONING ORDINANCE: The Zoning Ordinance of the City of Idaho Falls, Idaho (Ordinance No. 1941) as presently constituted or as may be amended hereafter.

4-16-3: ESTABLISHMENT AND CLASSIFICATION OF BUSINESSES:
(A) The establishment and operation of a Sexually Oriented Business shall be permitted only in the I&M-1 and I&M-2 zones, and shall be subject to the restrictions set forth in this Chapter. In particular, the issuance of a license shall not be construed to allow any person or establishment to engage in conduct otherwise expressly prohibited under Sections 4-16-24 and 4-16-25 of this Chapter.

(B) No person shall cause or permit the establishment of a Sexually Oriented Business within 1,000 feet of another such business or within 2,500 feet of any religious institution, school, boys' club, girls' club, or similar existing youth organization, or public park or public building, or within 2,500 feet of any property zoned for residential use or used for residential purposes.

(C) Notwithstanding the distance requirements of subsection (B) above, the location of Sexually Oriented Businesses within retail shopping centers in such zones is permitted where such activities will have their only frontage upon enclosed malls or malls isolated from direct view from public streets, parks, schools, religious institutions, boys' clubs, girls' clubs, or similar existing youth organization, public buildings or residential districts or uses.

4-16-4: MEASUREMENT OF DISTANCE: As regarding Section 4-16-3, paragraph (B), distance between any two Sexually Oriented Businesses shall be measured in a straight line, without regard to intervening structures, from the closest exterior structural wall of each business. The distance between any Sexually Oriented Business and any religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes shall also be measured in a straight line, without regard to intervening structures or objects from the nearest point of the property line of the premises where the Sexually Oriented Business is conducted, to the nearest point of the property line of the premises of a religious institution, public or private elementary or secondary school, boys club, girls club, or similar existing youth organization, or public park or public building or any properties zoned for residential use or used for residential purposes.

4-16-5: LOCATION OF SEXUALLY ORIENTED BUSINESSES: Sexually Oriented Businesses shall be permitted only in the I&M-1 and I&M-2 zones and shall otherwise be subject to the provisions of the Zoning Ordinance applicable to such zones, together with the provisions of this Chapter. In the event of any conflict between the Zoning Ordinance and this Chapter, then the provisions of this Chapter shall control. Permits for Sexually Oriented Businesses shall be required and governed by the procedures and policies specified in Section 4-16-9 of this Chapter. In addition, any person who owns, operates or controls a Sexually Oriented Business shall be subject to the following restrictions:

(A) The person commits a misdemeanor if he operates or causes to be operated a Sexually Oriented Business except as provided in Section 4-16-3 of this Chapter.

(B) The person commits a misdemeanor if he operates or causes to be operated a Sexually Oriented Business within 2,500 feet of:

(1) any religious institution;

(2) any school;
(3) the boundary of any residential zone;

(4) a public park adjacent to any residential zone;

(5) a property line of a lot devoted to residential use; or

(6) a boys club, girls club, or similar existing youth organization, except as provided in Section 4-16-3(C).

(C) A person commits a misdemeanor if he operates or causes to be operated a Sexually Oriented Business within 1,000 feet of another such business, which will include, any adult arcade, adult book store, adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, massage parlor or any sexual encounter establishment, except as provided in Section 4-16-3(C).

(D) A person commits a misdemeanor if he causes or permits the operation, establishment, or maintenance of more than one Sexually Oriented Business within the same building, structure, or portion thereof, except as provided in Section 4-16-3(C), or causes the substantial enlargement of any Sexually Oriented Business in any building, structure or portion thereof containing another Sexually Oriented Business.

(E) It is a defense to prosecution under this section if a person appearing in a state of nudity or semi-nudity did so in a modeling class operated:

(1) by a proprietary school, licensed by the State of Idaho; a college, junior college, or university supported entirely or partly by taxation;

(2) by a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or

(3) in a structure:

(a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

(b) where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(c) where no more than one nude model is on the premises at any one time.

4-16-6: REGULATIONS GOVERNING EXISTING SEXUALLY ORIENTED BUSINESSES:

(A) Any Sexually Oriented Business in operation on the effective date of the Ordinance adopting this Chapter, whose operation at a location is prohibited by this Chapter, shall be deemed to be a non-conforming use. Subject to the provisions of Article III of the Zoning Ordinance,
such non-conforming use may be continued at such location notwithstanding the provisions of this Chapter. Such business shall be considered to be in operation on the effective date of this Chapter if the business has been in continuous operation for a period of at least thirty (30) days prior to the date of the first reading of the Ordinance adopting this Chapter or has expended at least $1,000 for construction of improvements to any building or structure occupied by such business prior to such date. Such non-conforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more Sexually Oriented Businesses are within 1,000 feet of one another and otherwise in a permissible location, the Sexually Oriented Business which was first established and continually operating at the particular location is the conforming use and the later established business(es) is non-conforming, except as provided in Section 4-16-3(C).

(B) A Sexually Oriented Business lawfully operating as conforming use is not rendered a non-conforming use by the location, subsequent to the grant or renewal of a Sexually Oriented Business permit and/or license, of a church, public or private elementary or secondary school, public park, public building, residential district, or residential lot within 2,500 feet of the Sexually Oriented Business. This provision applies only to the renewal of a valid permit and/or license and does not apply when an application for a permit and/or license is submitted after a permit and/or license has expired or has been revoked.

(C) Any establishment subject to the provision of this section shall apply for the permit provided for by Section 4-16-10 within thirty (30) days of the effective date of the Ordinance adopting this Chapter. Any establishment, existing prior to such effective date, shall comply with the regulations pertaining to Sections 4-16-20 and 4-16-22 within sixty (60) days of such effective date, and all other applicable permit regulations within thirty (30) days of the effective date.

4-16-7: INJUNCTION: A person who operates or causes to be operated a Sexually Oriented Business without having a valid permit due to locational restrictions is subject to a suit for injunction as well as prosecution for the criminal violation. Such violation shall be punishable by a fine in an amount set from time to time by Resolution of Council, and/or thirty (30) days imprisonment, and if an injunction must be sought, attorney’s fees and costs may be assessed by the Court against the Sexually Oriented Business. (Ord. 2964, 8-14-14)

4-16-8: SEXUALLY ORIENTED BUSINESS PERMIT: PURPOSE AND INTENT: It is the purpose of this Chapter to regulate Sexually Oriented Businesses to promote the health, safety, morals and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent deleterious effects of Sexually Oriented Businesses within the City. The provisions of this Chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent, nor effect of this Chapter, to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent or effect of this Chapter to in any way condone or legitimize the distribution of obscene or harmful to minors' material.

4-16-9: PERMIT REQUIRED:

(A) No Sexually Oriented Business shall be permitted to operate without a valid Sexually Oriented Business permit issued by the City for the particular type of business. It shall be
unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business without said permit.

(B) The City Community Development Services Administrator or his/her designee is responsible for granting, denying, revoking, renewing, suspending, and canceling Sexually Oriented Business permits for proposed or existing Sexually Oriented Businesses. The City Community Development Services Administrator or his/her designee is also responsible for ascertaining whether a proposed Sexually Oriented Business for which a permit is being applied for complies with all locational requirements of Sections 4-16-3, 4-16-5, and 4-16-6 of this Chapter, all applicable zoning laws and/or regulations now in effect or as amended or enacted subsequent to the effective date of the Ordinance adopting this Chapter and the City Comprehensive Plan.

(C) The Idaho Falls Police Department shall be responsible for enforcing all other provisions of this Chapter. The Idaho Falls Police Department shall, upon request from the City Community Development Services Department Administrator, provide information on whether an applicant has been convicted of a Specified Criminal Act during the time period set forth.

(D) The City Community Development Services Administrator and the Idaho Falls Police Department shall be jointly responsible for inspecting a proposed, permitted or non-permitted Sexually Oriented Business in order to ascertain whether it is in compliance with this Chapter.

(E) An application for a permit must be made on a form provided by the City. Any person desiring to operate a Sexually Oriented Business shall file with the City Clerk an original and two (2) copies of a sworn permit application on the standard application form supplied by the City or designee. The completed application shall contain the following information and shall be accompanied by the following documents:

(1) If the applicant is:

(a) an individual, the individual shall state his/her legal name and any aliases and submit satisfactory proof that he/she is eighteen (18) years of age;

(b) a partnership, the partnership shall state its complete name, and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any;

(c) a corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of Idaho the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.

(2) If the applicant intends to operate the Sexually Oriented Business under a name other than that of the applicant; he must state

(a) the Sexually Oriented Business's fictitious name and
(b) submit documents evidencing compliance with Chapter 5, Title 53, Idaho Code.

(3) Whether the applicant or any of the other individuals listed pursuant to Section 4-16-9 of this Chapter has, within the two (2) or five (5) year period as specified in Section 4-16-11 immediately preceding the date of the application, been convicted of a Specified Criminal Act, and, if so, the Specified Criminal Act involved, the date of conviction, and the place of conviction.

(4) Whether the applicant or any of the other individuals listed pursuant to Section 4-16-9(F) of this Chapter has had a previous permit under this Chapter or other similar Sexually Oriented Business ordinances from another city or county denied, suspended or revoked, including the name and location of the Sexually Oriented Business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant or any other individuals listed pursuant to Section 4-16-9(F) has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is permitted under this Chapter whose permit has previously been denied, suspended or revoked, including the name and location of the Sexually Oriented Business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) Whether the applicant or any other individual listed pursuant to Section 4-16-9(F) holds any other permits and/or licenses under this Chapter or other similar Sexually Oriented Business ordinance from another city or county and, if so, the names and locations of such other permitted businesses.

(6) The single classification of permit for which the applicant is filing.

(7) The location of the proposed Sexually Oriented Business, including a legal description of the property, street address, and telephone number(s), if any.

(8) The mailing addresses and residential addresses of the applicant and each partner, member, officer, director and shareholder listed in Section 4-16-9(F) hereof.

(9) A recent photograph of the applicant(s) or its manager, partner, member or president.

(10) The driver's permit number, Social Security number, and/or State or federally issued tax identification number of the applicant or its manager, partner, member or president.
(11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(12) A current certificate and straight-line drawing prepared within thirty (30) days prior to application by an Idaho registered land surveyor depicting the property lines and the structures containing any established existing uses regulated by this Chapter within 2,500 feet of the property to be certified; the property lines of any established religious institution/synagogue, school, or public park or recreation area within 2,500 feet of the property to be certified; and the property lines of any residentially zoned area or residential property within 2,500 feet of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted. Sexually Oriented Businesses allowed under Section 4-16-3(C) of this Chapter are excepted from this requirement.

(13) If a person who wishes to operate a Sexually Oriented Business is an individual, he/she must sign the application for a permit as applicant. If a person who wishes to operate a Sexually Oriented Business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a Sexually Oriented Business or as the entity which wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.

(14) If a person wishes to operate a Sexually Oriented Business which shall exhibit on the premises films, video cassettes, DVD’s, CD-ROMs, or other video reproductions which depict Specified Sexual Activities or Specified Anatomical Areas, then said person shall comply with the application requirements stated at Section 4-16-20 et. seq. of this Chapter.

(F) To determine the suitability of prospective applicants for a license, the Chief of Police shall require a first time applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Section 67-3008, Idaho Code, and congressional enactment Public Law Section 92-544, the Chief of Police shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police, Bureau of Criminal Identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The Chief of Police is authorized to receive criminal history information from the Idaho State Police and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of applicants for a license under this section. As required by state and federal law, further dissemination of other use of the criminal history information is prohibited.
Fingerprinting shall not be required for a license renewal, unless fingerprints and criminal background check have not been previously obtained or performed for the applicant. For the purposes of this subsection, fingerprints shall also be taken of all individuals required to be listed pursuant to subsection E (14) of the preceding subsection.

(G) Applicants for a permit under this section shall have a continuing duty to promptly supplement application information required by this section in the event that said information changes in any way from what is stated on the application. The failure to comply with said continuing duty within thirty (30) days from the date of such change, by supplementing the application on file with the City Clerk or his/her designee, shall be grounds for suspension of a permit.

(H) In the event that the City Clerk or his/her designee determines or learns at any time that the applicant has improperly completed the application for a proposed Sexually Oriented Business, he/she shall promptly notify the applicant of such fact and allow the applicant ten (10) days to properly complete the application. The time period for granting or denying a permit shall be stayed during the period in which the applicant is expressly allowed an opportunity to properly complete the application.

(I) The applicant must be qualified according to the provisions of this Chapter and the premises must be inspected and found to be in compliance with all federal, state or City health, fire and building codes and laws.

(J) The applicant shall be required to pay a non-refundable application fee at the time of filing an application under this Chapter in an amount set from time to time by Resolution of the Council.

(K) Prior to obtaining any permit or license to operate any Sexually Oriented Business defined in this Chapter, and as part of any application for a permit under this section, the applicant shall obtain from the City Director of Community Development Services, or his or her designee, a certification that the proposed location of such business complies with the locational requirements of Sections 4-16-5 and 4-16-6 of this Chapter.

(L) The fact that a person possesses other types of State or City permits and/or licenses does not exempt the applicant from the requirement of obtaining a Sexually Oriented Business permit.

(M) By applying for a permit under this Chapter, the applicant shall be deemed to have consented to the provisions of this Chapter and to the exercise by the City Director of Community Development Services or his/her designee, the Idaho Falls Police Department and all other City agencies charged with enforcing the laws, ordinances and codes applicable in the City of their respective responsibilities under this Chapter.

(N) The applicant shall be required to provide the City with the names of any and all employees who are required to be licensed pursuant to Section 4-16-19 of this Chapter. This shall be a continuing requirement even after a permit is granted or renewed. (Ord. 2440, 2-15-02; Ord. 2964, 8-14-14; Ord. 3003, 04-23-15)

4-16-10: INVESTIGATION AND APPLICATION:
(A) Upon receipt of an application properly filed with the City Clerk and upon payment of the non-refundable application fee, the City Clerk or his/her designee, shall immediately stamp the application as received and shall immediately thereafter send photocopies of the application to the Idaho Falls Police Department and any other City departments or agencies responsible for enforcement of health, fire and building codes and laws. Each department or agency shall promptly conduct an investigation of the applicant, application and the proposed Sexually Oriented Business in accordance with its responsibilities under law and as set forth in this Chapter. Said investigation shall be completed within twenty (20) days of receipt of the application by the City or its designee. At the conclusion of its investigation, each department, division or agency shall indicate on the photocopy of the application its approval or disapproval of the application, date it, sign it, and, in the event it disapproves, state the reasons therefor. The Idaho Falls Police Department shall only be required to certify the NCIC records request check mentioned at Section 4-16-11. The Idaho Falls Police Department shall not be required to approve or disapprove applications.

(B) The City Council shall disapprove an application if it finds that the proposed Sexually Oriented Business will be in violation of any provision of any statute, code, ordinance, regulation or other law in effect in the City. (Ord. 3003, 04-23-15)

4-16-11: ISSUANCE OF PERMIT:

(A) The City Council shall grant or deny an application for a permit within sixty (60) days from the date of its proper filing. Upon the expiration of the sixtieth (60th) day, unless the applicant requests and is granted a reasonable extension of time, the applicant shall be permitted to begin operating the business for which the permit is sought, unless and until the City Director of Community Development Services Department, or his/her designee, notifies the applicant of a denial of the application and states the reasons(s) for that denial.

(B) Grant of Application for Permit

(1) The City Council shall grant the application unless one (1) or more of the criteria set forth in Section (C) below is present.

(2) The permit, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the Sexually Oriented Business. The permit shall also indicate that the Sexually Oriented Business whether permitted or not may be subject to prohibitions against Public Nudity and Indecency pursuant to the United States Supreme Court decision in Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991). The permit shall be posted in a conspicuous place at or near the entrance to the Sexually Oriented Business so that it can be read easily at any time.

(C) Denial of Application for Permit

(1) The Council shall deny the application for any of the following reasons:

(a) An applicant is under eighteen (18) years of age.
(b) An applicant or an applicant's spouse is overdue on his/her payment to the City or Bonneville County of any taxes, fees, fines, or penalties assessed against him/her or imposed upon him/her in relation to a Sexually Oriented Business.

(c) An applicant is residing with a person who has been denied a permit by the City to operate a Sexually Oriented Business within the preceding twelve (12) months, or residing with a person whose permit to operate a Sexually Oriented Business has been revoked by any other governmental or regulatory agency within the preceding twelve (12) months.

(d) An applicant has failed to provide information required by this section or permit application for the issuance of the permit or has falsely answered a question or request for information on the application form.

(e) The premises to be used for the Sexually Oriented Business have not been approved as being in compliance with health, fire and building codes by the department, division, or agency responsible under law for investigating said compliance.

(f) The application or permit fees required by this Chapter have not been paid.

(g) An applicant of the proposed business is in violation of, or is not in compliance with, any of the provisions of this Chapter including but not limited to the zoning locational requirements for a Sexually Oriented Business under Sections 4-16-3, 4-16-5, and 4-16-6 hereof.

(h) The granting of the application would violate a statute, ordinance, or court order.

(i) The applicant has a permit under this Chapter which has been suspended or revoked.

(j) An applicant has been convicted of a "Specified Criminal Act" for which:

   (1) less than two (2) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a misdemeanor offense for the "Specified Criminal Acts” which are sexual crimes against children, sexual abuse, rape or crimes connected with another Sexually Oriented Business including but not limited to
distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(2) less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the conviction is of a felony offense; for the "Specified Criminal Acts” which are sexual crimes against children, sexual abuse, rape or crimes connected with another Sexually Oriented Business including but not limited to distribution of obscenity or material harmful to minors, prostitution, pandering, or tax violations;

(3) less than five (5) years have elapsed since the date of conviction or the date of release from confinement, whichever is the later date, if the convictions are of two (2) or more misdemeanor offenses for "Specified Criminal Acts” which are sexual crimes against children, sexual abuse, rape or crimes connected with another Sexually Oriented Business including but not limited to distribution of obscenity or materials harmful to minors, prostitution, pandering or tax violations; offenses occurring within any twenty-four (24) month period;

(4) the fact that a conviction is being appealed shall have no effect on disqualification of the applicant;

(5) An applicant who has been convicted of the above described "Specified Criminal Acts” may qualify for a Sexually Oriented Business permit only when the time period required above in Section 4-16-11 (j) has elapsed.

(k) An applicant knowingly has in his or her employ, an employee who does not have a valid license as required in Section 4-16-19 of this Chapter.

(2) If the City Council denies the application, the City Clerk shall notify the applicant of the denial and state the reasons(s) for the denial within ten (10) days after the date of such denial.

(3) If a person applies for a permit for a particular location within a period of twelve (12) months from the date of denial of a previous application for a permit at the location, and there has not been an intervening change in the circumstances which could reasonably be expected to lead to a different decision regarding the former reasons for denial, the application shall be denied. (Ord. 3003, 04-23-15)

4-16-12: ANNUAL PERMIT FEE: The annual fee for a Sexually Oriented Business permit shall be in an amount set from time to time by Resolution of the Council. Such fee shall accompany the application filed under Section 4-16-9 (F) hereof. (Ord. 2964, 8-14-14)
4-16-13: INSPECTION:

(A) An applicant or permittee shall permit representatives of the City Planning and Building Office, the State Health Department, and the Idaho Falls Fire Department to inspect the premises of a Sexually Oriented Business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(B) It shall be unlawful and a person who operates a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, or his/her agent or employee, if he/she refuses to permit such lawful inspection of the premises at any time that it is occupied or open for business.

4-16-14: EXPIRATION OF PERMIT:

(A) Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application as provided in Section 4-16-11 (for renewals, filing of original survey shall be sufficient) of this Chapter. Application for renewal shall be made at least thirty (30) days before the expiration date, and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.

(B) When the City Council denies renewal of the permit, the applicant shall not be issued a permit under this Chapter for one (1) year from the date of denial. If, subsequent to denial, the City Council finds that the basis for denial of the renewal of the permit has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date denial became final.

4-16-15. SUSPENSION OF PERMIT:

(A) The City Director of Community Development Services Department or the Chief of Police of the Police Department shall suspend a permit for a period not to exceed thirty (30) days if he/she determines that a permittee, or an employee of a permittee, has:

(1) Violated or is not in compliance with any Section of this Chapter; or

(2) Been under the influence of alcoholic beverages while working in the Sexually Oriented Business premises; or

(3) Refused to allow an inspection of Sexually Oriented Business premises as authorized by this Chapter; or

(4) Knowingly permitted gambling by any person on the Sexually Oriented Business premises; or

(5) Operated the Sexually Oriented Business in violation of a building, fire, health, or zoning statute, code, ordinance or regulation, whether federal, state or local, said determination being based on investigation by the
department, division or agency charged with enforcing said rules or laws. In the event of such statute, code, ordinance or regulation violation, the City or its designee, shall promptly notify the permittee of the violation and shall allow the permittee a seven (7) day period in which to correct the violation. If the permittee fails to correct the violation before the expiration of the seven (7) day period, the City or its designee, shall forthwith suspend the permit and shall notify the permittee of the suspension.

(6) Engaged in permit transfer contrary to Section 4-16-18 of this Chapter. In the event that the City Director of Community Development Services Department suspends a permit on the ground that a permittee engaged in a permit transfer contrary to Section 4-16-18 of this Chapter, the Director or his/her designee shall forthwith notify the permittee of the suspension. The suspension shall remain in effect until the applicable section of this Chapter has been satisfied.

(7) Operated the Sexually Oriented Business in violation of the hours of operation Section 4-16-23.

(8) Knowingly employs a person who does not have a valid license as required in Section 4-16-19 of this Chapter.

(B) The suspension shall remain in effect until the violation of the statute, code, ordinance or regulation in question has been corrected. (Ord. 3003, 04-26-15)

4-16-16: REVOCATION OF PERMIT:

(A) The City Council shall revoke a permit if a cause of suspension in Section 4-16-15 of this Chapter occurs and the permit has been suspended within the preceding twelve (12) months.

(B) The City Council shall revoke a permit upon determining that:

(1) A permittee gave false or misleading information in the material submitted during the application process that tended to enhance the applicant's opportunity for obtaining a permit; or

(2) A permittee or an employee has knowingly allowed possession, use or sale of controlled substances in or on the premises; or

(3) A permittee or an employee has knowingly allowed prostitution on the premises; or

(4) A permittee or an employee knowingly operated the Sexually Oriented Business during a period of time when the permittee's permit was suspended; or
(5) A permittee has been convicted of a "Specified Criminal Act" for which the time period required in Section 4-16-11 of this Chapter has not elapsed; or

(6) On two (2) or more occasions within a twelve (12) month period, a person or persons committed an offense, occurring in or on the permitted premises, constituting a Specified Criminal Act for which a conviction has been obtained, and the person or persons were employees of the Sexually Oriented Business at the time the offenses were committed. The fact that a conviction is being appealed shall have no effect on the revocation of the permit; or

(7) A permittee is convicted of tax violations for any taxes or fees related to a Sexually Oriented Business; or

(8) A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or any other Specified Sexual Activities to occur in or on the permitted premises; or

(9) A permittee has been operating more than one Sexually Oriented Business under a single roof except as provided in Section 4-16-3(C).

(C) When the City Council revokes a permit, the revocation shall continue for one (1) year and the permittee shall not be issued a Sexually Oriented Business permit for one (1) year from the date revocation became effective. If, subsequent to revocation, the City Council finds that the basis for revocation under Section 4-16-16 of this Chapter has been corrected, the applicant shall be granted a permit if at least ninety (90) days have elapsed since the date revocation became effective. If the permit was revoked under Section 4-16-16 of this Chapter, an applicant may not be granted another permit until the number of years required under Section 4-16-16 have elapsed. (Ord. 3003, 04-23-15)

4-16-17: JUDICIAL REVIEW OF PERMIT DENIAL, SUSPENSION OR REVOCATION: After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or permittee may seek review of such administrative action pursuant to and within the time frames established by the Idaho Administrative Procedure Act.

4-16-18: TRANSFER OF PERMIT:

(A) A permittee shall not operate a Sexually Oriented Business under the authority of a permit at any place other than the address designated in the application for permit.

(B) A permittee shall not transfer his/her permit to another person unless and until such other person satisfies the following requirements:

(1) Obtains an amendment to the permit from the City Council which provides that he/she is now the permittee, which amendment may be obtained only if he/she has completed and properly filed an application with the City Clerk or his/her designee, setting forth the information called for under Section 4-16-11 of this Chapter in the application; and
(2) Pays a transfer fee of twenty percent (20%) of the annual permit fee set by this Chapter.

(C) No permit may be transferred when the City Director of Community Development Services Department, the Chief of Police or the City Council have notified the permittee that suspension or revocation proceedings have been or will be brought against the permittee.

(D) A permittee shall not transfer his permit to another location.

(E) Any attempt to transfer a permit either directly or indirectly in violation of this section is hereby declared void and the permit shall be deemed revoked upon the date such transfer is made. (Ord. 3003, 04-23-15)

4-16-19: SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE:

(A) Each individual to be employed in a Sexually Oriented Business, as defined in Section 4-16-2 of this Chapter, who engages in the services rendered by a nude model studio, escort or escort agency, sexual encounter establishment, massage parlor, or a live performer or entertainer shall be required to obtain a Sexually Oriented Business Employee License. Each applicant shall pay a permit fee in an amount set from time to time by Resolution of the Council. Said fee is to cover reasonable administrative costs of the licensing application process.

(B) Before any applicant may be issued a Sexually Oriented Business Employee License, the applicant shall submit on a form to be provided by the City Clerk or his/her designee the following information:

1. The applicant's name or any other names (including "stage" names) or aliases used by the individual;
2. Age, date, and place of birth;
3. Height, weight, hair and eye color;
4. Present residence address and telephone number;
5. Present business address and telephone number;
6. State driver's license or identification number;
7. Social Security number;
8. Acceptable written proof that the individual is at least eighteen (18) years of age;
9. Attached to the application form as provided above, a color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by the
Idaho Falls Police Department. Any fees for the photographs and fingerprints shall be paid by the applicant;

10. A statement detailing the license or permit history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operating or seeking to operate, in this or any other county, city, state, or country has ever had a license, permit, or authorization to do business denied, revoked, or suspended, or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the date, the name of the issuing or denying jurisdiction, and describe in full the reasons for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application;

11. Whether the applicant has been convicted of a "Specified Criminal Act” as defined in Section 4-16-2 of this Chapter. This information shall include the date, place, nature of each conviction or plea of nolo contendere and identifying the convicting jurisdiction;

12. The City Clerk or his or her designee shall refer the Sexually Oriented Business Employee License Application to the Idaho Falls Police Department for an investigation to be made of such information as is contained on the application. The application process shall be completed within ten (10) days from the date the completed application is filed. After the investigation, the City Clerk or his or her designee shall issue a license unless the report from the Police department finds that one (1) or more of the following findings is true:

   a. That the applicant has knowingly made any false, misleading, or fraudulent statement of a material fact in the application for a license, or in any report or record required to be filed with the sheriff's department or other department of the City;

   b. That the applicant is under eighteen (18) years of age;

   c. That the applicant has been convicted of a "Specified Criminal Act" as defined in Section 4-16-2 of this Chapter;

   d. That the Sexually Oriented Business Employee License is to be used for employment in a business prohibited by local or state law, statute, rule or regulation, or prohibited by particular provisions of this Chapter; or

   e. That the applicant has had a Sexually Oriented Business Employee License revoked by the City or any other governmental or regulatory agency within two (2) years of the date of the current application.

(C) Renewal of license:

1. A license granted pursuant to this section shall be subject to annual renewal by the City Clerk or his or her designee upon the written application of the applicant and a finding by the City Clerk or his or her designee and the Idaho Falls Police Department that the applicant has not been convicted of any "Specified Criminal Act” as defined in Section 4-16-2 of this Chapter
or committed any act during the existence of the previous license period which would be grounds to deny the initial permit application.

2. The renewal of the license shall be in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14; Ord. 3003, 04-23-15)

4-16-20: REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS IN VIDEO BOOTHS.

(A) A person who operates or causes to be operated a Sexually Oriented Business, other than an Adult Motel and regardless of whether or not a permit has been issued to said business under this Chapter, and who exhibits on the premises in a viewing room of less than one hundred fifty square feet (150 ft²) of floor space, a film, video cassette, DVD’s, CD-ROMs, or other video reproduction which depicts Specified Sexual Activities or Specified Anatomical Areas, shall comply with the following requirements:

1. Upon application for a Sexually Oriented Business permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one (1) or more manager's stations, the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two square feet (32 ft²) of floor area with no dimension greater than eight feet (8’). The diagram shall also designate the place at which this permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale with marked dimensions sufficient to show the various internal dimension of all areas of the interior of the premises to an accuracy of plus or minus six inches (6”). The City Director of Community Development Services Department or his/her designee, may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the City Director Community Development Services Department or his/her designee.

4. It is the duty of the owners and operator of the premises to insure that at least one (1) employee is on duty and situated at each manager's station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of
the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises have two (2) or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

(6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present on the premises to insure that the view area specified in Subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials or person at all times and to insure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection a. of this section.

(7) No viewing room may be occupied by more than one (1) person at any one time. No holes, commonly known as "glory holes," shall be allowed in the walls or partitions which separate each viewing room from an adjoining viewing room or restroom.

(8) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access and an illumination of not less than two (2) foot candle as measured at the floor level.

(9) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present on the premises to ensure that the illumination described above is maintained at all times that any patron is present on the premises.

(B) A person having a duty under Section 4-16-20(A)(1)-(9) of this Chapter commits a misdemeanor if he/she knowingly fails to fulfill that duty. (Ord. 2964, 8-14-14; Ord. 3003, 04-23-15)

4-16-21: PROHIBITIONS REGARDING MINORS AND SEXUALLY ORIENTED BUSINESSES: A person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, and knowingly or with reasonable cause to know, permits, suffers, or allows:

(A) Admittance of a person under eighteen (18) years of age to the business premises unless accompanied by a parent or guardian;

(B) A person under eighteen (18) years of age to remain at the business premises unless accompanied by a parent or guardian;
(C) A person under eighteen (18) years of age to purchase goods or services at the business premises without the specific consent of a parent or guardian; or

(D) A person who is under eighteen (18) years of age to work at the business premises as an employee.

4-16-22: ADVERTISING AND LIGHTING REGULATIONS:

(A) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, and advertises the presentation of any activity prohibited by any applicable State statute or local ordinance.

(B) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, and displays or otherwise exhibits the materials and/or performances at such Sexually Oriented Business in any advertising which is visible outside the premises. This prohibition shall not extend to advertising of the existence or location of such Sexually Oriented Business.

(C) It shall be unlawful for any permittee to allow any portion of the interior premises of a Sexually Oriented Business to be visible from outside the licensed premises.

(D) All off-street parking areas and premise entries of the Sexually Oriented Business shall be illuminated from dusk to closing hours of operation with a lighting system which provides an average maintained horizontal illumination of one (1) foot candle of light on the parking surface and/or walkways. This required lighting level is established in order to provide sufficient illumination of the parking areas and walkways serving the Sexually Oriented Business for the personal safety of patrons and employees and to reduce the incidence of vandalism and criminal conduct. The lighting shall be shown on the required sketch or diagram of the premise.

(E) Nothing contained in this section of the Chapter shall relieve the operator(s) of a Sexually Oriented Business from complying with the requirements of the City Zoning Ordinance, as it may be amended from time to time, or any subsequently enacted City ordinances or regulations.

4-16-23: HOURS OF OPERATION:

(A) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, and allows such business to remain open for business, or to permit any employee to engage in a performance, solicit a performance, make a sale, solicit a sale, provide a service, or solicit a service on Sunday between the hours of 1:00 a.m. and 9:00 a.m. of the following Monday or between the hours of 1:00 a.m. and 9:00 a.m. of any other day.

(B) It shall be unlawful and a person commits a misdemeanor if, working as an employee of a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, said employee engages in a performance, solicits a performance, makes a sale, solicits a sale, provides a service, or solicits a service on Sunday between the hours of
1:00 a.m. and 9:00 a.m. or the following Monday or between the hours of 1:00 a.m. and 9:00 a.m. of any other day.

4-16-24: PUBLIC NUDITY PROHIBITED:

(A) The United States Supreme Court decision in Barnes v. Glen Theatre, Inc., 501 U.S. 560, 111 S. Ct. 2456, 115 L. Ed.2d 504 (1991) and Erie v. Pap’s A.M., 120 S. Ct. 1382, 146 L. Ed.2d 265, upheld the rights of cities to prohibit public nudity at any Sexually Oriented Businesses, regardless of whether or not a permit has been issued to said businesses, including businesses where no alcoholic beverages are sold, served, or consumed at the premises. The City expressly finds that the secondary effects associated with live adult entertainment and public nudity adversely impact and threaten to impact the public health, safety and welfare by providing an atmosphere conducive to violence, sexual harassment, public intoxication, prostitution, the spread of sexually transmitted disease and other deleterious effects. Accordingly, consistent with such decisions, the City intends by this Chapter to prohibit public nudity within the City.

(B) No person shall knowingly or intentionally, in a Public Place:

(1) engage in sexual intercourse,
(2) appear in a state of nudity or semi-nudity,
(3) fondle his or her genitals or the genitals another person, or
(4) engage in Specified Sexual Activities.

(C) No person who owns, operates or otherwise controls a Sexually Oriented Business shall permit, allow, hire, sponsor or employ any other person for the purpose of appearing in a state of nudity or semi-nudity at any Public Building, Public Park or Recreation Area or Public Place.

(D) The prohibitions set forth in subsections B(2) and B(3) above shall not apply to:

(1) any child under ten (10) years of age;
(2) any individual exposing a breast in the process of breast feeding an infant under two (2) years of age;
(3) any person while performing any excretory function within a public restroom; or
(4) any person changing his or her clothing in a dressing room, the sole purpose of which is to provide personal privacy for such purposes.
(5) Any person while receiving medical or therapeutic treatment from any physician, paramedic, nurse or other medical practitioner licensed by the State of Idaho.

4-16-25: PROHIBITION OF LIVE ADULT ENTERTAINMENT:
(A) No person shall perform, cause or allow the performance of Live Adult Entertainment in any Public Place within the City or at any private place or location where any individual admissions charge or consideration is charged to or collected from persons attending such performance.

(B) No employee of a Sexually Oriented Business shall engage in any "Specified Sexual Activity" or display or expose any "Specified Anatomical Area" while acting as a waiter, waitress, host, hostess, or bartender.

4-16-26: ADDITIONAL CRIMINAL PROHIBITIONS FOR THE OPERATION OF A SEXUALLY ORIENTED BUSINESS WITHOUT A VALID PERMIT:

(A) In addition to the criminal provisions in other sections of this Chapter, the following additional criminal provisions shall also apply to Sexually Oriented Businesses.

(B) It shall be unlawful and a person commits a misdemeanor if he/she operates or causes to be operated a Sexually Oriented Business, regardless of whether or not a permit has been issued for said business under this Chapter, and said person knows or should know that:

1. The business does not have a Sexually Oriented Business permit under this Chapter for any applicable classification;
2. The business has a permit which is under suspension;
3. The business has a permit which has been revoked; or
4. The business has a permit which has expired.

4-16-27: EXEMPTIONS:

(A) It is a defense to prosecution for any violation of this Chapter that a person appearing in a state of nudity did so in a modeling class operated:

1. By a college, junior college, or university supported entirely or partly by taxation;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or:
3. In a structure:

   (a) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
(b) Where, in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(c) Where no more than one (1) nude model is on the premises at any one (1) time.

(B) It is a defense to prosecution for a violation of this Chapter that an employee of a Sexually Oriented Business, regardless of whether or not it is permitted under this Chapter, exposed any Specified Anatomical Area during the employee's bona fide use of a restroom, or during the employee’s bona fide use of a dressing room which is accessible only to employees.

4-16-28: CRIMINAL PENALTIES AND ADDITIONAL LEGAL, EQUITABLE, AND INJUNCTIVE RELIEF:

(A) In addition to whatever penalties are applicable under the Idaho Criminal Code, if any person fails or refuses to obey or comply with or violates any of the criminal provisions of this Chapter, such person upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Three Hundred Dollars ($300) or by imprisonment not to exceed six (6) days in the City jail, or both, in the discretion of the Court. Each violation or non-compliance shall be considered a separate and distinct offense. Further, each day of continued violation or non-compliance shall be considered as a separate offense.

(B) Nothing herein contained shall prevent or restrict the City from taking such other lawful action in any court of competent jurisdiction as is necessary to prevent or remedy any violation or non-compliance. Such other lawful actions shall include, but shall not be limited to, an equitable action for injunctive relief or an action at law for damages.

(C) All remedies and penalties provided for in this section shall be cumulative and independently available to the City and the City shall be authorized to pursue any and all remedies set forth in this section to the full extent allowed by law.

4-16-29: IMMUNITY FROM PROSECUTION: The City and its designee, the Idaho Falls Police Department and all other departments, divisions, and agencies, and all other City officers, agents and employees, charged with enforcement of State and local laws and codes shall be immune from prosecution, civil or criminal, for reasonable, good faith trespass upon property owned or controlled by a Sexually Oriented Business while acting within the scope of authority conferred by this Chapter.

4-16-30: SCOPE AND INTERPRETATION: Notwithstanding the other provisions of this Chapter, nothing in this Chapter shall apply to the sale, loan, distribution, dissemination, presentation or exhibition of material or live conduct which is obscene, as defined under Chapter 18, Title 41, Idaho Code, unless such Chapter or any provision thereof, is determined to be unconstitutional or unenforceable for any reason. This Chapter shall be interpreted to be consistent in all respects with the provisions of Idaho Code Section 18-4113 and shall be applicable only to the extent it regulates the sale, loan, distribution, dissemination presentation or exhibition of material or live conduct that is not otherwise obscene, as defined by Idaho Code Section 18-4101, provided, however, if any provision of such Chapter of the Idaho Code is determined to be unconstitutional or unenforceable for any reason, then this Chapter shall be fully enforceable notwithstanding such determination.
CHAPTER 17

HOTELS

[REPEALED by Ord. 2902, 05-10-12]
CHAPTER 18
PHOTOGRAPHERS
[REPEALED by Ord. 2906, 06-26-14]
## TITLE 5
### CRIMINAL CODE

<table>
<thead>
<tr>
<th>CHAPTER:</th>
<th>SUBJECT:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>General Provisions</td>
</tr>
<tr>
<td>2</td>
<td>Principals, Competency and Juveniles</td>
</tr>
<tr>
<td>3</td>
<td>Punishment</td>
</tr>
<tr>
<td>4</td>
<td>General Offenses</td>
</tr>
<tr>
<td>5</td>
<td>Animals</td>
</tr>
<tr>
<td>6</td>
<td>Dog Control</td>
</tr>
<tr>
<td>7</td>
<td>Exhibition and Discharge of Firearms and Weapons</td>
</tr>
<tr>
<td>8</td>
<td>Litter and Weed Control</td>
</tr>
<tr>
<td>9</td>
<td>Swimming and Boating</td>
</tr>
<tr>
<td>10</td>
<td>Prohibition of Graffiti</td>
</tr>
<tr>
<td>11</td>
<td>Non-discrimination in Employment and Housing</td>
</tr>
<tr>
<td>12</td>
<td>Juvenile Curfew</td>
</tr>
<tr>
<td>13</td>
<td>Public Safety</td>
</tr>
</tbody>
</table>
CHAPTER 1
GENERAL PROVISIONS

SECTION:

5-1-1: Legislative Purpose
5-1-2: Definition of Crime
5-1-3: Punishment for Crimes
5-1-4: Prosecutions of Crimes
5-1-5: Union of Act and Intent
5-1-6: Manifestation of Intent
5-1-7: Territorial Jurisdiction

5-1-1 LEGISLATIVE PURPOSE.

This Title is called the Criminal Code. All words and phrases used herein shall have the same meaning as ascribed in Title 18 of the Idaho Code, except as expressly defined herein. All provisions herein shall be applied in the same manner and construed consistently with the provisions of the Criminal Code for the State of Idaho.

5-1-2 DEFINITION OF CRIME.

A crime or public offense is an act committed or omitted in violation of a law forbidding or commanding it, and for which any person may be punished by imprisonment or fine.

5-1-3 PUNISHMENT OF CRIMES.

Every person committing a crime, other than an infraction, is punishable by imprisonment for a term not exceeding six (6) months, or by a fine in an amount set from time to time by Resolution of the Council, or by both, or by any other fine, imprisonment or combination thereof, permitted by Idaho Code Section 50-302. Any person committing an infraction is punishable only by a penalty in an amount set from time to time by Resolution of the Council. (Ord. 2964, 8-14-14)

5-1-4 PROSECUTIONS AGAINST CRIMES.

The City may prosecute any corporation for violation of this Criminal Code. In any such prosecution, it shall be sufficient to make the corporation in its corporate name a defendant and service may be procured against the corporation in the same manner as permitted under the Criminal Code of the State of Idaho. Any judgment imposed by the court against a corporation, shall have the force and effect of a judgment in a civil action, and execution against a corporation may issue in the same manner as in civil actions. Any summons served upon a defendant corporation shall contain a statement that the corporation shall appear forthwith and defend said action, and in the event of its failure to do so, a plea of not guilty will be entered by the court, and the trial will proceed as if the corporation had appeared. A copy of the Complaint shall be attached to and served with the Summons.

5-1-5 UNION OF ACT AND INTENT.

In every crime there must exist a union, or joint operation, of act and intent, or criminal negligence.
5-1-6 MANIFESTATION OF INTENT.

The intent to commit a crime is manifested by the circumstances connected with the crime and the sound mind and discretion of the accused.

5-1-7 TERRITORIAL JURISDICTION.

Any person who commits a crime within the City is punishable as set forth in this Criminal Code. A crime is committed for the purposes thereof when all elements of the crime have occurred; however, a person is punishable under this Code whenever any element of the crime is committed within the City.
CHAPTER 2
PRINCIPALS, COMPETENCY AND JUVENILES

SECTION:

5-2-1: Principals
5-2-2: Competency
5-2-3: Intoxication
5-2-4: Trial of Juveniles

5-2-1 PRINCIPALS.

All persons who directly commit the act constituting the offense or aid and abet in the commission of a crime, or, not being present, have advised and encouraged its commission, and all persons counseling, advising, or encouraging children under the age of fourteen (14) years, lunatics, or idiots, to commit any crime, or who, by fraud, contrivance, or force, occasion the drunkenness of another for the purpose of causing him to commit any crime, or who, by threats, menaces, command or coercion, compel another to commit any crime, are principals in any crime so committed and are punishable in the same manner as though they directly commit the act constituting the offense.

5-2-2 COMPETENCY.

Mental condition shall not be a defense to any charge of criminal conduct. If the court finds an accused suffers from any mental condition, such person shall be committed in the manner set forth in Idaho Code. Whenever there is reason to doubt the defendant's fitness to proceed, the court shall appoint a qualified psychiatrist or licensed psychologist in the manner set forth in Idaho Code, and the defendant shall be examined as set forth therein. All proceedings thereafter shall be in accordance with the procedure set forth in Idaho Code.

5-2-3 INTOXICATION.

No act committed by a person while in a state of voluntary intoxication is less criminal by reason of such condition. But whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute any particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive or intent with which he committed the act.

5-2-4 TRIAL OF JUVENILES.

Trials against juveniles, and a conviction of any juvenile for a crime, may occur only as allowed under Idaho Code. Incarceration of any juvenile shall be in accordance with Idaho Code.
CHAPTER 3
PUNISHMENT

SECTION:

5-3-1: Double Jeopardy
5-3-2: Aiding in Misdemeanors
5-3-3: Conviction of Attempt When Crime is Consummated
5-3-4: Punishment for Attempts
5-3-5: Successive Terms of Imprisonment
5-3-6: Computation of Imprisonment

5-3-1 DOUBLE JEOPARDY.

An act or omission which is made punishable in different ways by different provisions of this Code may be punished under either of such provisions, but in no case can commission of such act or omission be punished under more than one; an acquittal or conviction and sentence under either one, bars a prosecution for the same act or omission under any other.

5-3-2 AIDING IN MISDEMEANORS.

Whenever an act is declared a misdemeanor and no punishment for counseling, aiding in, soliciting or inciting the commission of such act is expressly prescribed by law, every person who counsels, aids, solicits or incites another in the commission of such act is guilty of a misdemeanor.

5-3-3 CONVICTION OF ATTEMPT WHEN CRIME IS CONSUMMATED.

Any person may be convicted of an attempt to commit a crime, although it appears on the trial that the crime intended or attempted was perpetrated by such person in pursuance of such attempt, unless the court, in its discretion, discharges the jury, and directs such person to be tried for such crime.

5-3-4 PUNISHMENT FOR ATTEMPTS.

Every person convicted of attempting to commit a crime, may be punished by a fine not exceeding one-half of the maximum amount of the fine or length of imprisonment which could be imposed if the crime had in fact been committed, or both such fine and imprisonment.

5-3-5 SUCCESSIVE TERMS OF IMPRISONMENT.

Whenever any person is convicted of two or more crimes, before sentence has been pronounced upon him for either, the court, may in its discretion, impose concurrent rather than consecutive sentences.

5-3-6 COMPUTATION OF IMPRISONMENT.

In computing the term of imprisonment, the person against whom the judgment was entered shall receive credit for any period of incarceration prior to entry of judgment if such incarceration was for the offense or an included offense for which the judgment was entered.
CHAPTER 4
GENERAL OFFENSES

SECTION:

5-4-1: Children and Incompetent Persons
5-4-2: Public Streets
5-4-3: Attractive Irrigation Nuisance
5-4-4: Prostitution
5-4-5: Utility Lines
5-4-6: Open Burning Defined
5-4-7: Trains
5-4-8: Disturbing the Peace
5-4-9: Distracted Driving

5-4-1 CHILDREN AND INCOMPETENT PERSONS.

(A) Cruel Treatment or Neglect of Mentally Handicapped. It shall be unlawful for any person to harshly, cruelly, or unkindly treat or neglect any duty imposed by law for the protection or care of any mentally handicapped or insane person.

(B) Encouraging Delinquency. It shall be unlawful for any person to encourage, aid or cause any minor child to commit a crime.

(C) Minors in Pool Halls. It shall be unlawful for any person to permit or allow any minor under the age of twenty-one (21) years to be present in any commercial pool or billiard hall or room where beer, wine or alcoholic beverages are sold. For the purposes hereof, it shall be lawful to permit or allow minors to be present in any building wherein such pool room is located, as long as the pool room is fully enclosed or wholly separated from the view of minors.

(D) Runaways. It shall be unlawful for any person under the age of eighteen (18) years who is not lawfully emancipated from his or her parents to attempt to run away or to run away from his or her parents, guardian or other legal custodian, or to be or remain a person who has run away from his or her parents, guardian or legal custodian. For the purposes hereof, an unemancipated minor shall be considered to be a runaway if 1) he or she has by declaration or conduct stated or evidenced his or her intention to place or remove his or her person beyond the control of his or her parents for an indefinite period of time and has acted in accordance with such intention, or 2) has intentionally placed his or her person in a location unknown to his or her parents for a period of greater than twenty-four (24) consecutive hours irrespective of such declaration or conduct.

5-4-2 PUBLIC STREETS.

(A) Placing Debris on Streets. It shall be unlawful for any person to willfully or negligently throw from any vehicle, or to place, deposit or permit to be deposited upon or alongside any highway, street, alley or easement used by the public for public travel, any debris, paper, litter, glass bottle, glass, nails, tacks, hoops, cans, barbed wire, boards, trash or garbage, lighted material, or other waste substance. Such persons shall, upon conviction thereof, be punished by a fine not exceeding one
thousand dollars ($1,000) or by imprisonment not exceeding ten (10) days or both such fine and imprisonment. For the purpose of this Section, the terms “highway,” “street,” “alley,” or “easement” shall be construed to include the entire right-of-way of such highway, street, alley or easement.

(B) Damage to Public Street. It shall be unlawful for any person to drive a tractor or vehicle with lug wheels upon a public street or to drive or operate any vehicle in a manner which damages or destroys any surface of any street or sidewalk, or to drive or operate a vehicle in excess of the gross vehicle weights permitted under the laws of the State of Idaho, upon any public street in the City.

(C) Games in Streets. It shall be unlawful for any person to play ball or any game in a public street, or to encourage, permit or allow any minor to engage in such activities.

5-4-3 ATTRACTIVE IRRIGATION NUISANCE.

Enclosed headgates and boxes for the diversion of irrigation waters, with openings at the top are recognized and declared to be attractive and dangerous to small children who are likely to play about the same and on occasion, to fall into the water therein contained. It shall be unlawful for any person to use, maintain or operate an enclosed headgate or diversion box having an opening of a width of at least twelve inches (12") and a length of at least twelve inches (12"), and for which no locked cover is placed thereon.

5-4-4 PROSTITUTION.

(A) Definitions.

For the purposes of this Chapter, the following terms shall have the meanings described below:

*House of prostitution.* Any place where prostitution or promotion of prostitution is regularly carried on by one (1) or more persons under the control, management or supervision of another.

*Prostitution.* The act of engaging in, or the offer or agreement to engage in, sexual contact or sexual conduct with another person in return for a fee.

(B) Disorderly House of Prostitution Prohibited. It shall be unlawful for any person to own, keep, operate, or maintain any house of prostitution, or any house for the purpose of assignation of prostitution.

(C) Admission of Minors Into Houses of Prostitution. It shall be unlawful for any person to have ownership or control of any house of prostitution, or any house, structure, or room resorted to for the purpose of prostitution, or to admit or keep any minor of either sex therein, or for any parent or guardian of any such minor to allow or keep such minor in any such house, structure, or room.

5-4-5 UTILITY LINES.

(A) Burning Electric Lines or Plants. It shall be unlawful for any person within the City to willfully or maliciously set a fire to any line erected or constructed for the transmission of electrical current or telephone or cable television (“CATV”) CATV signal, or any poles, conduits, cables, wires, insulators or any support upon which wires or cables may be suspended, or any part of any such line or
appurtenances or apparatus connected therewith, or any house, shop, building or other structure, or appurtenances thereto, or machinery connected therewith, or necessary to the use of, any line erected or constructed for the transmission of electrical current or telephone or CATV signal, or to set fire that shall in any manner interrupt the transmission of electrical current or telephone or CATV signal along such line.

(B) Damaging CATV. It shall be unlawful for any person to willfully damage, destroy or in any way injure any equipment, or facilities of a cable TV system located within the City, or who willfully obstruct, impede, or impair the service of any such system or equipment.

(C) Unauthorized Attachment to CATV. It shall be unlawful for any person, without permission of the owner or operator of a CATV system, to attach any device or equipment to any equipment or line owned by the CATV system, or without such authority, to connect to the CATV system in order to receive any signal from a CATV line without paying consideration therefore.

5-4-6 OPEN BURNING DEFINED.

(A) For the purposes of this Chapter, the term open burning shall mean the burning of any material where the products of combustion are not directed through a duct, passage, smoke stack or chimney, except:

(1) Fires used for the preparation of food and camp fires used for recreational purposes under control of a responsible adult.

(2) Fires used as part of a training exercise conducted by the City Fire Department.

(3) Safely operated industrial flares for combustion of flammable gases.

(4) Fires used for control or alleviation of a fire hazard and for weed control, where no alternate method of control exists, provided a permit has been first obtained from the Idaho Falls Fire Department.

(B) It shall be unlawful for any person to allow or cause open burning within the City. (Ord. 3003, 04-26-15)

5-4-7 TRAINS.

(A) Speed of Trains. It shall be unlawful for any person to operate a locomotive engine or train of cars upon rails or tracks within the City at a speed greater than twenty five (25) miles per hour.

(B) Unlawful to Jump on Trains. It shall be unlawful for any unauthorized person to climb, jump, or to be found upon any railroad car or engine, whether in motion or standing still, upon the railroad tracks within the City, unless such person shall have a railroad ticket or a written permission signed by an agent of the railroad company granting such privilege.

5-4-8 DISTURBING THE PEACE.
Any person who disturbs the peace and quiet of another or of any neighborhood, family, congregation or other assembly by causing loud, repetitive or high pitched noises, flashing lights, vibration or by using, operating or controlling sound amplification or reproduction equipment that emits sound that is plainly audible at a distance of fifty feet (50’) or more from its source or by engaging in or causing any other annoying or unusual activity, is guilty of an infraction.

5-4-9 DISTRACTED DRIVING

(A) DEFINITIONS

(1) Mobile Electronic Device. Any handheld or portable electronic device capable of receiving, producing, displaying, or providing wireless data or voice communication, including a cellular telephone; broadband personal communication device; two-way messaging device; text messaging device; pager; electronic device that can receive or transmit text or character-based images, access or store data or connect to the internet; personal digital assistant; laptop computer; computer tablet; stand-alone computer; portable computing device; mobile device with a touchscreen display that is designed to be worn; electronic games; equipment that is capable of playing a video, taking photographs, capturing images or recording or transmitting video; and any similar device that is readily removable from a vehicle and may be used to write, send or read text or data or capture images or video through manual input. "Mobile electronic device" shall not include a radio designed for the citizens band service or the amateur radio service of the Federal Communications Commission or a commercial two-way radio communications device.

(2) Motor Vehicle. A device or vessel classified as a “motor vehicle” in Idaho Code Section 49-123“V”.

(3) Operate. Driving or occupying the driver’s position of a motor vehicle in motion upon a public way, street, road or highway. “Operate” shall not include a motor vehicle that is lawfully parked or standing.

(4) Park. Standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(5) Standing. The complete halting of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

B. USE OF MOBILE ELECTRONIC SERVICES PROHIBITED

Except as specifically provided in this Section, no person shall operate a motor vehicle while using a mobile electronic device.

C. EXCEPTIONS
1. The provisions of this Chapter shall not apply to:
   a. A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle or similarly engaged paid or volunteer public safety first responder during the performance of that person’s official duties, and a public utility employee or contractor acting within the scope of that person's employment when responding to a public utility emergency.
   
   b. The use of a mobile electronic device including a text messaging device, for emergency purposes. “Emergency purposes” include, contacting a 911 system; reporting an emergency to a law enforcement agency, health care provider, fire department or other emergency services agency or entity; reporting a fire, traffic accident, serious road hazard or medical or hazardous materials emergency to appropriate authorities; and reporting the operator of another motor vehicle who is driving in a reckless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs to law enforcement.

2. Use of a global positioning or navigation system feature of a mobile electronic device, provided that the operator of the vehicle is not manually entering information into the global positioning or navigation system feature of the device and the device is not in the operator’s hands while operating the motor vehicle.

3. Use of a mobile electronic device in a voice-operated or hands free mode, only where the operator of the motor vehicle does not use their hands to operate the device, except to activate or deactivate the voice-operated function of device.

D. AUTHORITY FOR PRIMARY VEHICLE STOP. A City peace officer is hereby authorized to utilize this Section as the primary or sole reason for issuing a citation to a driver.

E. PENALTIES.
Unless otherwise provided herein, any person who violates this Section is guilty of an infraction in an amount set from time to time by Resolution of the Council. Any person who violates this Section more than three (3) times within a two (2) year period is guilty of a misdemeanor for such violation. (Ord. 3221, 11/10/2018)
CHAPTER 5
ANIMALS

SECTION:

5-5-1: Definitions
5-5-2: Herding Animals
5-5-3: Keeping of Certain Domestic Animals Prohibited
5-5-4: Keeping of Wild Animals
5-5-5: Keeping of Beehives
5-5-6: Animals at Large
5-5-7: Impoundment of Animals
5-5-8: Harassment of Zoo Animals
5-5-9: Feeding Zoo Animals Prohibited
5-5-10: Bugling Prohibited
5-5-11: Removal of Zoo Animals
5-5-12: Animal Disposal Fee

5-5-1 DEFINITIONS.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

Adequate care. Care of an animal to include, but not be limited to, a clean, safe shelter that provides protection from the weather, sufficient heat and ventilation, wholesome food and water, proper veterinary care and exercise consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

Animal control shelter. Any animal shelter, lot, premises or building maintained by the City for the confinement and care of animals.

At large. An animal shall be deemed to be at large when found to be located off the property of the owner and not under restraint or control.

Cruelty. An act committed with the intent to harm or needlessly kill an animal or committed out of depraved indifference for the animal's well-being, including but not limited to torture, maiming, beating, or otherwise committing violence that causes injury or death.

Enclosure. A fence or structure suitable to prevent the escape of the animal, or the entry of young children.

Household. A property where animals are kept, including buildings used as residences, kennels, barns, sheds, and other structures and pens, corrals, or other enclosures.

Owner. A person having the right of property or custody of an animal, or who keeps or harbors an animal, or knowingly permits an animal to remain on or about any premises occupied, owned, or controlled by that person.
Person. An individual, corporation, partnership, limited liability company, or other organization commonly recognized by law.

Pet shop. An establishment engaged in the business of buying or selling animals at retail for profit.

Restraint. An animal shall be considered under restraint if it is confined within the real property limits of its owner, is secured by a leash, lead or chain, or is confined within a vehicle in a manner that prevents escape.

5-5-2 HERDING ANIMALS.

It shall be unlawful for any person to herd or drive any fowl, cattle, swine, goats, sheep, horses, mules or other animal upon any street, alley or public way. Nothing herein shall prevent the riding of any horse or mule, or the driving of a horse, mule, ox or cow hitched to a carriage or conveyance, for the purpose of any public parade or exhibition.

5-5-3 KEEPING OF CERTAIN DOMESTIC ANIMALS PROHIBITED.

(A) Except as set forth below, it shall be unlawful for any person to keep or maintain within the City:

(1) any horse, mule, ox, cow, swine, goat, sheep, fowl, bison, or llama, regardless of weight; or

(2) any other domestic animal weighing in excess of fifty (50) pounds.

(B) Nothing herein shall prohibit the keeping or maintenance of the following animals:

(1) Any domestic dog, cat, canary, parrot or fish.

(2) The keeping or maintenance of any domestic or feral animal within any public zoo, circus, exhibition, pet show, pet store, veterinarian clinic or auctioneering business, provided the operators thereof shall have first obtained a license under the provisions of this Code.

(C) Notwithstanding the foregoing, horses and llamas may be kept upon any property zoned "RE - Residence Estate" under the Zoning Ordinance.

(D) Notwithstanding the foregoing, the keeping of not more than six (6) domestic hen chickens is permitted within the rear yard of any single family dwelling or duplex located in a residential zone, provided the following requirements are observed:

(1) Eggs produced by such hens shall not be sold for pecuniary gain or profit.

(2) Such hens shall not be slaughtered on the premises or raised or sold for slaughter or pecuniary gain or profit.
(3) For the purposes of this sub-section, the term "rear yard" means a residential yard lying between the rear lot line and the nearest foundation line of the main building and extending across the full width of the lot. In the case of a corner lot where the building fronts on a side street, the rear yard may be established from the rear of the house to the side property line.

5-5-4 KEEPING OF WILD ANIMALS.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

(A) Definitions.

Wild animal means the following animals, irrespective of their actual or asserted temperament or domestication:

(1) Alligators and crocodiles (crocodylidae).
(2) Bears (ursidae), including grizzly bears, brown bears, and black bears.
(3) Cheetahs, cougars, leopards, lions, lynx, panthers, mountain lions, tigers, wildcats, bobcats and pumas.
(4) Wolves, foxes, and coyotes.
(5) Porcupines (erethizontidae).
(6) Nonhuman primates.
(7) Raccoons (procyonidae), including eastern raccoons, desert raccoons and ringtailed cats.
(8) Skunks, martins, wolverines, badgers, otters, ermines, minks and mongooses.
(9) Venomous reptiles.
(10) Birds of prey (falconi formes), such as eagles, hawks, falcons or owls, unless the owner has a permit issued by the State of Idaho or the United States of America, or any agency thereof, allowing the keeping of such animals and provided the animal is kept in a cage or is tethered by a sufficiently strong tether to prevent its escape.
(11) Elk, deer, moose, antelope or other members of the cervidae family that are generally wild in their native habitat.
(12) Any other animal of a species that is considered wild in its native habitat and which is venomous, fetid or which in its native habitat presents a significant risk of bodily harm or death to humans.

Wild animal hybrid or hybrid means an animal which is a first generation product of the breeding of:
(1) A wild animal with an animal that is not wild, including but not limited to wolf/dog hybrids.

(2) A wild animal with an animal of a different species, variety or breed.

Except as otherwise expressly allowed under subsection (C) hereof, it shall be unlawful for any person to sell, offer for sale, purchase, barter, keep, own, harbor, or transport any wild animal or hybrid as defined in Section 5-5-4 (A) above.

(C) Nothing herein shall prohibit the bona fide activities of the following:

(1) A veterinary hospital operated by a veterinarian currently licensed by the State of Idaho.

(2) A pet store, animal shelter, zoological park, humane society shelter, public laboratory, circus, sideshow, amusement show, exhibition or facility for educational or scientific purposes, which keeps or cares for wild animals, provided protective devices or procedures adequate to prevent such animal from escaping or injuring the public are employed and provided further that the operators of such facilities have first obtained a license from the City Clerk as required under this Code.

(3) The transportation, keeping or harboring of a wild animal by any officer or agent of the state or federal government in the ordinary course of their duties.

(D) Impounding of Prohibited Animals:

(1) City police officers and animal control officers may take up and impound any wild animal or hybrid found or kept in violation of this Chapter or found to be at large within City limits.

(2) Any domestic animal impounded in the animal control shelter shall be retained for a minimum of seventy two (72) hours, unless the lawful owner or keeper appears and claims the animal, and pays all impound fees and charges as provided in this Chapter. If the owner or keeper of such animal does not appear at the animal control shelter within a seventy-two (72) hour period, the animal may be delivered to any other state or federally licensed or operated facility, or the animal may be humanely destroyed and the carcass disposed of in any lawful manner. If the owner or keeper of the impounded animal appears at the animal shelter at any time during the seventy-two (72) hour period, the Animal Services Manager, or his or her authorized representative, shall deliver a written notice to the owner or keeper of the prohibited animal, stating that the animal has been impounded as a prohibited animal, and that the animal will be destroyed within ten (10) days after the date of such notice unless an order to show cause is issued by a court of competent jurisdiction and served upon the City, requiring the City to show cause why the animal should be destroyed. Such notice shall be deemed to be given as of the date of its physical delivery to the owner or keeper of the prohibited animal or upon its deposit in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the last known address of the owner or keeper of such animal.
animal. If such order is not served upon the City within ten (10) days of the
delivery date of the notice, the animal shall be destroyed and disposed of as
provided herein. If the order to show cause is issued and served upon the City Clerk
within ten (10) days of delivery of the notice to the owner, the animal shall be
retained in the pound until further order of the court.

(3) Upon request by the owner or keeper of any impounded animal received within ten
(10) days of the date of impoundment, the Animal Services Manager may release
the animal to the custody of such owner, subject to the following conditions:

(a) the animal is not venomous or fetid and has not exhibited behavior dangerous to
human life or limb;

(b) the owner or keeper has paid all impound fees incurred for the care of the
animal;

(c) the owner or keeper shall, within ten (10) days after such request was received,
sign and deliver to the Animal Services Manager a written agreement agreeing
to forthwith remove the animal to a designated location outside the city limits
and further agreeing that if the animal is found within the city limits at any time
after the expiration of ten (10) days from the date of such agreement, he or she
shall have no rights under subsection (D)(2) above and the animal may be
immediately destroyed or delivered to another state or federally licensed facility,
without further notice; and

(d) the owner or keeper shall agree in writing to indemnify and hold the City
harmless from any claim against the City for injury to person or property caused
by such animal.

If the animal is later found within the City limits at any time in violation of such
agreement, it may be forthwith destroyed in a humane manner, or removed without
compliance with the provisions of subsection (D)(2) above.

(4) Impound Fees: If the Court orders the release of any prohibited animal impounded
under this section, or if the court orders the removal of the animal from the City
limits, the owner or keeper of the animal shall pay a boarding fee as set by Council,
but no further impound fee shall be charged.

5-5-5 KEEPING OF BEEHIVES.

(A) Purpose. The purpose of this Section is to protect the public health and safety by
establishing terms and conditions under which domestic honeybees and beehives may be kept within
the City.

(B) Definitions.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:
Apiary. Any place where one or more colonies of honeybees are located.

Beekeeper. A person who owns or has charge of one (1) or more colonies of honeybees.

Colony. Honeybees in a hive including queens, workers, and drones.

Hive. A frame hive, commonly referred to as a Langstroth Hive, which has removable frames.

Honeybee. The common domestic honeybee. Apis mellifera species, at any stage of maturity, but excluding the African honeybee, Apis mellifera scutelata species.

Owner. Any person or entity who owns, leases or controls a parcel of real property upon which an apiary is kept.

(C) Beekeeping Allowed. No Beekeeper or Owner shall place, keep, or allow any apiary or colony of bees in or upon any parcel of real property located within the City unless such apiary conforms to the provisions of this Section.

(D) Terms and Conditions. All apiaries or colonies of honeybees kept within the City shall conform to the following terms and conditions:

1. The apiary or colony shall consist of no more than two (2) hives on lots that are eight thousand (8,000) square feet or smaller; three (3) hives on lots from twelve thousand (12,000) to twenty thousand (20,000) square feet and up to five (5) hives on lots that are one-half acre or more.

2. The apiary or colony is maintained only in a side or rear yard of a residential lot. Apiaries or colonies shall not be kept or maintained in a commercial or industrial zone.

3. Honeybees shall be kept in hives with removable frames and shall be kept in sound and usable condition.

4. Hives shall be placed no less than seven feet (7') from any property line and at least six inches (6") above the ground, measured from the ground to the lowest portion of the hive. Hives shall not be placed within thirty feet (30') of any dwelling, porch, gazebo, swing set, sandbox, playground equipment, deck or swimming pool, unless the owner of such dwelling, equipment or property has given written consent for hive placement.

5. If any hive is located within thirty feet (30') of an adjacent property line, a fence, closed hedge, building or other impervious barrier no less than six feet (6') high and twenty feet (20') in length and shall be located between the hive and the adjacent property line.

6. A fresh water supply will be maintained at all times, except during winter months when the bees are hibernating, within fifteen feet (15’) to twenty five feet (25’) of the apiary in order to prevent the bees from congregating at neighboring water sources.
(7) No species of bee is kept other than Apis mellifera.

(8) Queens shall be selected from stock bred for gentleness and non-swarming characteristics.

(9) If the colony exhibits unusually aggressive behavior or when the colony includes Africanized bees, the beekeeper or owner shall promptly remove or re-queen the colony.

(10) All hives shall have a legible identification label securely fastened thereupon bearing the name and telephone number of the beekeeper who owns the hive.

(11) All apiaries or colonies shall comply with the Idaho State Bee Inspection statute and other applicable state laws.

(12) All beekeepers must register each hive with the City's Animal Shelter. This registration shall include the name of the beekeeper, the mailing address of the beekeeper, the phone number of the beekeeper and the physical address of where each hive under the beekeeper's control is located.

5-5-6 ANIMALS AT LARGE.

It shall be unlawful for any owner or custodian of any animal, other than a domestic cat, to allow such animal to be, or remain, at large within the City.

5-5-7 IMPOUNDMENT OF ANIMALS.

The City Animal Services Manager shall impound or confine any animal found at large within the City. Any animal so impounded or confined shall be provided with the proper care, food or water. The care, disposal, release, sale or destruction of any animal so impounded shall be conducted in a like manner as set forth in the Dog Control Chapter of this Code. Prior to the release of any animal impounded at the City Pound, the Animal Control Shelter Services Manager shall collect from the owner, or custodian thereof, an impound fee and boarding fees as set forth in the Dog Control Chapter of this Code.

5-5-8 HARASSMENT OF ZOO ANIMALS.

It shall be unlawful for any person to harass, torment, poison or injure any animal kept at the Idaho Falls Public Zoo.

5-5-9 FEEDING ZOO ANIMALS PROHIBITED.

It shall be unlawful for any person to feed any animal kept at the Idaho Falls Public Zoo when a sign prohibiting such feeding is clearly visible within the proximity of the place where such animal is kept without lawful authority to do so.

5-5-10 BUGLING PROHIBITED.

CITY CODE OF THE CITY OF IDAHO FALLS
It shall be unlawful for any person to bugle or call any animal located at the Idaho Falls Public Zoo, or uses any device to imitate a mating call of such animal.

5-5-11 REMOVAL OF ZOO ANIMALS.

It shall be unlawful for any person to remove or transport any animal kept at the Idaho Falls Public Zoo, without lawful authority to do so.

5-5-12 ANIMAL DISPOSAL FEE.

The owner of any animal whose carcass is brought to the City Animal Control Shelter for the purpose of disposing of the same, shall pay a carcass disposal fee of fifteen dollars ($15).
CHAPTER 6
DOG CONTROL

SECTION:

5-6-1: Definitions
5-6-2: License Required
5-6-3: License Fees
5-6-4: Tags to be Placed on Collar
5-6-5: Record of License
5-6-6: Impounding of Dogs
5-6-7: Ownership of Dogs Limited
5-6-8: Rabies
5-6-9: Unlawful Disposal of Rabid Dog
5-6-10: Control of Dogs
5-6-11: Control of Cats
5-6-12: Unlawful Interference
5-6-13: At Risk Dogs
5-6-14: Dangerous Dogs
5-6-15: Impound and Boarding Fees
5-6-16: Dog Defecation to be Removed by Dog Owner

5-6-1: DEFINITIONS:

Certain terms used in this Chapter shall have the meaning ascribed below:

(A) ANIMAL CONTROL SHELTER: Any animal shelter, lot, premises or building maintained by the City for the confinement and care of animals.

(B) AT LARGE: A dog shall be deemed to be at large when off the property of the owner, and not under restraint or control.

(C) DOG: A dog of an age four (4) months or older that is kept as a household pet.

(D) ENCLOSURE: A fence or structure suitable to prevent escape of the animal or the entry of young children.

(E) NEUTERED: Rendered permanently incapable of reproduction.

(F) NUISANCE ANIMAL: A nuisance animal, including a dog or cat, is one that:
   1. Frequently runs at large;
   2. Damages, soils, or defecates on private property other than property owned or controlled by the animal owner or on public property, including walks and recreation areas, unless such waste is immediately removed and properly disposed of by the animal owner or handler;
   3. Causes unsanitary or dangerous conditions;
   4. Causes a disturbance by excessive barking or other noise making
5. Creates a general public nuisance; and/or
6. Chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

(G) OWNER: A person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied, owned, or controlled by that person.

(H) PERSON: Any individual, corporation, partnership, organization or institution commonly recognized by law as a unit.

(I) RESTRAINT: A dog shall be considered under restraint if it is confined within a structure or fenced yard, is secured by a leash, lead or chain or is confined within a vehicle in a manner that prevents escape.

(J) UNLICENSED DOG: A dog for which a license has not been issued for the current year, or to which the tag provided for in this Chapter is not attached.

(K) VACCINATION: The inoculation of an animal against rabies in accordance with state law and the "Compendium of Animal Rabies Prevention and Control" published by the National Association of the State Public Health Veterinarians and published annually in the Journal of the American Veterinary Medical Association. (Ord. 3078, 6-28-16)

5-6-2 LICENSE REQUIRED.

(A) It shall be unlawful for any person to keep or harbor any dog within the City without paying a license fee as herein provided. Dogs kept in a commercial dog kennel need not be individually licensed, but must be restricted to the premises or kept within a cage or enclosure at all times. This Section shall not apply to any person owning or possessing a dog currently licensed and bearing the license issued by another licensing authority, nor shall it apply to any dog which has strayed into the City but is duly licensed by, and wearing the tag of, another licensing authority.

(B) All dogs over the age of four (4) months must be vaccinated for rabies, and a copy of the vaccination certificate must be present with the license application.

(C) Licensing of cats is voluntary. All cats over the age of four (4) months must be vaccinated for rabies, and a copy of the vaccination certificate must be presented with the license application.

5-6-3 LICENSE FEES.

(A) Each license for a cat or dog shall be issued for a term of three (3) years. It shall expire on December 31st of the 3rd year following issuance of the license. The triennial fee for licensing all unneutered dogs or cats, and the triennial fee for the licensing of all neutered dogs shall be in an amount set from time to time by Resolution of the Council, respectively. Each license shall be valid only for the dog for which it was issued and shall not be transferred or used for any other dog. Upon payment of such fee, the Clerk or other authorized representative shall issue a license and a metal tag bearing the year of expiration and a number corresponding to the
number on the license. The license shall state the date of issuance, the date of expiration, the amount paid, the name and address of the person to whom issued and the breed and sex of the dog.

(B) License fees shall be waived for:

1. Any neutered dog used primarily as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 et seq.

2. Any neutered dog in training as a service animal when the owner or keeper establishes the service animal's function as an assistance animal under the Americans with Disabilities Act, 42 USC 12101 et seq.

3. Any neutered dog used by a public agency or a private organization under contract to a public agency as a police dog, tracking dog, search and rescue dog, arson or drug sniffing dog, or for any other job that furthers in the mission of the agency to protect and serve the public interest. (Ord. 2964, 8-14-14)

5-6-4 TAGS TO BE PLACED ON COLLAR.

It shall be unlawful for any person to own or keep a licensed dog within the City which does not have a tag affixed to its neck. If the metal tag is lost, a duplicate tag may be obtained from the Clerk, or other authorized representative, upon payment in an amount set from time to time by Resolution of Council. (Ord. 2964, 8-14-14)

5-6-5 RECORD OF LICENSE.

The Clerk shall keep a record of the licenses issued under this Chapter, and shall record all of the facts required to be stated in the license. Duplicate records of licenses issued shall be maintained by the Animal Services Manager at the Animal Control Shelter.

5-6-6: IMPOUNDING OF DOGS:

Any nuisance animal may be impounded in the Animal Control Shelter. All dogs found at large are declared to be public nuisances and all City police or animal control officers shall impound them in the Animal Control Shelter. The impoundment, redemption, sale or other disposal of impounded dogs shall be as follows:

(A) Impoundment of Unlicensed Dogs. All impounded dogs not licensed or not identified by tag or microchip shall be retained in the Animal Control Shelter for a minimum of three (3) business days. At any time during this period, the owner or keeper of such dog may redeem it by procuring a license, a microchip and by paying an impound fee plus a boarding fee as set forth in this Chapter.

(B) Impoundment of Licensed Dogs. All impounded dogs which are licensed or otherwise identified with a tag or microchip or whose owner is known shall be retained in the Animal Control Shelter for a minimum period of five (5) days after the owner is
notified of the impoundment. As soon as reasonably possible following impoundment of such dog, the Animal Services Manager shall give notice of the impoundment to the owner of the dog, either in writing, by telephone or by personal notification. The Animal Services Manager shall keep a record of the date, time and manner of giving notice, with respect to each impounded dog. At any time during the said five (5) day period the owner may redeem the dog by procuring a microchip and paying an impound fee plus a boarding fee as set forth in this Chapter. The five (5) day period shall commence to run at noon on the day following the date notice is given.

(C) Spaying and Neutering. Any dog adopted from the Animal Control Shelter shall be spayed or neutered by a licensed veterinarian either prior to adoption, or within thirty (30) days of adoption, or as soon after the dog is old enough to be spayed or neutered. If the dog is not already spayed or neutered, the adopter shall agree to provide evidence of spaying or neutering to the Animal Control Shelter within thirty (30) days. For dogs determined by a licensed veterinarian to be too young to be spayed or neutered within thirty (30) days of adoption, proof of spaying or neutering shall be provided by the dog’s owner within thirty (30) days of the age the dog became eligible for spaying or neutering, which date shall be designated on the adoption paperwork.

(D) An unneutered dog that has been impounded at the Animal Control Shelter on two (2) previous occasions during the previous one (1) year period shall be required to be spayed or neutered prior to the owner redeeming the animal. The impound, and boarding fees, shall be applied toward the cost of the spay or neuter.

(E) Unclaimed Dogs. The ownership of any dog not redeemed within the periods of time herein stated shall be forfeited and the dog may be sold thereafter by the Animal Services Manager to any person.

(F) No dog shall be released from the Animal Control Shelter unless the dog is licensed and microchipped under this Chapter and wearing a tag.

(G) Disposal of Dogs: If any dog is not redeemed or sold, the dog may be humanely destroyed and the carcass disposed of in any lawful manner. (Ord. No. 2961, June 26, 2014).

5-6-7: OWNERSHIP OF DOGS LIMITED.

(A) It shall be unlawful to maintain upon the premises of any one (1) dwelling or upon the premises of any one (1) business property more than two (2) dogs except, where accommodation or variation from these requirements is appropriate under current Idaho or federal law or where allowed by the Zoning Code or by this Chapter.

(B) Annual Additional Dog Permit.

1. Application. An application to have up to three (3) dogs in addition to the two (2) dogs allowed by this Chapter (for a total number of dogs not to exceed five (5)) shall be made to the Clerk. The application shall be accompanied by the following: (a) the annual non-refundable fee for the additional dog permit; (b) the name, address, and other contact information for the
Owner of each dog and for the property on which the dog(s) will be kept; (c) identification of each dog (their breed(s), name and license number); (d) verification of spaying or neutering, where applicable; (e) a depiction of the outside area showing all fencing, kennel(s), and dog run(s) which are capable of confining dogs; (f) a statement signed by the person owning or controlling the property that permission has been granted to have more than two (2) dogs on such premises; and (g) a signed agreement that allows the City and its agents, to enter onto the property (including the dwelling and interior parts of the property) at any time 8:00 a.m. to 5:00 p.m., on any day, to conduct an inspection of the property for the purposes of verifying that the permittee is in compliance with the permit.

2. Annual Permit. The additional dog permit allowed by this Chapter shall be for a term of not more than one (1) calendar year and shall expire annually at midnight December 31 of every year.

3. Fee. A fee established from time to time by Resolution of the Council shall be charged for each additional dog permit allowed by this Chapter. Such fee shall be annual, non-refundable, and not pro-rated.

4. Inspection. Prior to approval of the additional dog permit, the location where additional dog(s) shall be kept will be inspected by a City animal control officer who will verify that the planned location for the additional dog(s) is sanitary, safe, and that dog escape or nuisance is not likely.

5. Standards for Permit Approval. Upon receipt of the permit fee and a complete application, and following inspection, a permit shall be issued where approval of the permit is not reasonably likely to comprise a public nuisance.

6. When a City animal control officer or peace officer certifies to the Clerk in writing that there is an immediate danger to life or health of a person because of additional dogs, the application or license may be immediately and summarily denied or revoked. Under such conditions, notice of such denial or revocation will be given as soon as practicable thereafter.

7. Permit Denial or Revocation. Prior to the denial or revocation of the additional dog permit, the City shall provide written notice of the denial or revocation to the applicant or permittee. Such written notice shall be sent by mail or hand delivery to the address provided in the application. The written notice shall state the reason(s) for such revocation or denial and shall state that such applicant or permittee may appeal the decision to the Animal Control Review Board hearing, as provided herein. Notice of denial or revocation is effective on the date the notice is placed in the mailbox maintained by the U.S. Postal Service, or is hand delivered to the applicant or permittee.

8. Failure by the City to give notice as provided in this Chapter, shall not establish a right to the additional dog permit under this Chapter.

(C) Appeals.

1. Appeal to the City Animal Control Review Board. If an application for the additional dog permit is denied or revoked, the applicant or permittee may give written notice of appeal of such denial or the permit is revocation to the Clerk. The Animal Control Review Board shall consist of the City Animal Service Manager, the Idaho Falls Police Department Services

CITY CODE OF THE CITY OF IDAHO FALLS 246
Captain, and currently licensed Idaho veterinarian. The Animal Control Review Board shall then set a time and a place for such hearing and the Clerk shall inform the applicant or permittee of the hearing date in writing, at least five (5) business days prior to such Board hearing. The Animal Control Review Board will review the application and any relevant testimony and materials submitted by the applicant, permittee, and City and will make a determination regarding issuance or revocation of the permit within twenty-one (21) calendar days following the date of the Board hearing.

2. Appeal to City Council. An applicant, permittee, or City Department(s) adversely affected by a decision made by the Animal Control Review Board may appeal the Board’s decision to the Council by filing a notice of appeal in writing to the Clerk. A time and a place for such hearing shall be set within thirty (30) days following the receipt of the notice of appeal, and the Clerk shall inform the applicant or permittee and relevant City Department(s) of the hearing date in writing at least five (5) business days prior to such Council hearing. At or following the hearing, the Council may uphold the decision to deny or revoke or may direct the Clerk to issue a permit which has been denied or revoked, upon finding of good cause for the issuance of such permit.

3. Failure by person appealing (or their representative), to appear before the Council at the time scheduled to consider the appeal shall result in the automatic denial of the appeal.

4. Fee for appeal. A non-refundable fee for an appeal to the Animal Control Review Board or to the Council, shall be in an amount set from time-to-time by Resolution of Council. (Ord. 2964, 8-14-14; Ord. 3078, 6-28-16)

5-6-8 RABIES.

(A) Rabies Vaccination. It shall be unlawful for the owner of any dog or cat to not have a current rabies vaccination. Vaccinations must begin when the animal has reached the age of four (4) months. Every owner must, upon request of a City Police or Animal Services Officer produce proof of such vaccination(s).

(B) Suspected Rabies – Quarantine Procedures. Any owner of any animal which shows symptoms of rabies, or which has bitten any person causing an abrasion to the skin, shall surrender the animal for quarantine at the Animal Services Shelter or to a licensed veterinarian for a period of ten (10) days or shall securely quarantine the animal on his/her premises for said period of time. The choice of place of quarantine shall be at the discretion of the Animal Services Manager. All costs for the quarantine shall be borne by the owner. If an owner refuses to surrender or confine the animal, Animal Services Officers are hereby authorized to seize the animal and transport it to the Animal Services Shelter or a licensed veterinarian for quarantine. City Police or Animal Services Officers are hereby authorized to immediately impound any quarantined animal found outside the quarantine area and arrange for its confinement in accordance with this section. If the animal has been quarantined by the owner, on the next working day following the ten (10) day quarantine, the owner shall take the animal to a licensed veterinarian for examination and to obtain a rabies vaccination if the owner has not provided a current valid rabies vaccination certificate. A copy of the examination results and a current certificate of rabies vaccination must be provided to Animal Services no later than the following day. If an animal quarantined at the Animal Services Shelter is determined to be free of rabies, it shall be returned to the owner upon payment of all costs for confinement, examination and
vaccination and if such fees are not paid, the animal may be disposed of as herein provided. If the animal is determined to be rabid, it shall be humanely destroyed and the owner shall be responsible to pay the boarding fees as set forth in this Chapter.

5-6-9: UNLAWFUL DISPOSAL OF RABID DOG:

It shall be unlawful for any person to kill or cause to be killed any rabid dog, or dog suspected of having rabies, or any dog who has bitten or attacked a person, without having given the notice required by this Chapter, or having given such notice, to kill such dog before the expiration of the ten (10) days quarantine period.

5-6-10: CONTROL OF DOGS:

(A) It shall be unlawful for any person to harbor or keep on his or her premises, or in his or her control any dog which, by loud and prolonged barking or howling, disturbs the peace and quiet of the neighborhood, or of the occupants of adjacent premises.

(B) It shall be unlawful for any person to have or keep on his or her premises or in his or her control a nuisance animal.

(C) Any owner or keeper of a dog whose dog is determined to be at large on or in any public street, alley, sidewalk, park or place, or upon private property without the permission of the owner or occupant thereof, is guilty of a misdemeanor. Notwithstanding the foregoing, the Mayor may, upon application of any person, authorize dog shows, exhibitions and dog training courses to be held upon public property and where the dogs participating therein are controlled by competent attendants and the Council may designate public areas within the City which may be used, subject to such rules and regulations as may be prescribed, for the training or exercise of dogs. Dogs within such areas need not be controlled by leash, but shall be under the control of a responsible person and controlled by whistle, voice or other effective command. Notwithstanding the foregoing, it shall be unlawful for any person to allow a dog under leash to be in any public park or recreation area designated by the Council as a public area in which dogs are not allowed, unless the dog is a service dog or is a participant in an approved dog show, exhibition or dog training course, or is otherwise allowed by law or regulation in such an area. Such areas shall be specifically designated by resolution of the Council and a sign giving notice of such prohibition shall be posted at each vehicular entrance to such public area.

(D) It shall be unlawful for any owner or keeper of any female dog in heat to allow such dog to be at large. It shall be unlawful for the owner or keeper of such a dog to fail to confine or enclose such dog in a manner that precludes other dogs from breeding the female dog.

(E) It shall be unlawful for any person to let to the owner or keeper of a female dog any dog, except within an enclosure so arranged as to obstruct such animal completely from the view of all persons who have no proprietary interest in the breeding of such animals.

5-6-11 CONTROL OF CATS:

(A) Cat nuisances include but are not limited to excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and noxious odors or unsanitary conditions caused by failure to clean the cat’s resident property.
(B) Cats must be prevented from causing a nuisance by howling in a habitual, consistent, or persistent manner that repeatedly disturbs the peace of the neighborhood.

(C) Owners must take steps to prevent feces deposits by their cats on public property, public and private rights-of-way, and private property not owned or rented by the animal owner and prevent them from continually spraying or depositing urine on lawns and landscaping that causes damage to grasses, flowers, shrubs, etc.

(D) Animal Services shall investigate each complaint and issue a warning letter to the cat owner on the first offense. A citation may be issued on subsequent offenses.

(E) Impoundment of Unlicensed Cats. All impounded cats not licensed or not identified by tag or microchip, shall be retained in the Animal Services Shelter for a minimum of three (3) business days. At any time during this period, the owner or keeper of such cat may redeem it by procuring a microchip and by paying an impound fee plus a boarding fee as set forth in this Chapter. Any cat that is identified by a shelter personnel as "feral" or "wild" shall not be required to be held for the three (3) day period.

(F) Impoundment of Licensed Cats. All impounded cats which are licensed or otherwise identified with a tag or microchip or whose owner is known shall be retained in the Animal Control Shelter for a minimum period of five (5) days after the owner is notified of the impoundment. As soon as reasonably possible following impoundment of such cat, the Animal Services Manager shall give notice of the impoundment to the owner of the cat, either in writing, by telephone or by personal notification. The Animal Services Manager shall keep a record of the date, time and manner of giving notice, with respect to each impounded cat. At any time during the said five (5) day period the owner may redeem the cat by procuring a microchip and paying an impound fee plus a boarding fee as set forth in this Chapter. The five (5) day period shall commence to run at noon on the day following the date notice is given.

(G) Spaying and Neutering. Any cat adopted from the Animal Control Shelter shall be spayed or neutered by a licensed veterinarian either prior to adoption, or within thirty (30) days of adoption, or as soon after the cat is old enough to be spayed or neutered. If the cat is not already spayed or neutered, the adopter shall agree to provide evidence of spaying or neutering to the Animal Control Shelter within thirty (30) days. For cats determined by a licensed veterinarian to be too young to be spayed or neutered within thirty (30) days of adoption, proof of spaying or neutering shall be provided by the cat's owner within thirty (30) days of the age the cat became eligible for spaying or neutering, which date shall be designated on the adoption paperwork.

(H) Unclaimed Cats. The ownership of any cat not redeemed within the periods of time herein stated shall be forfeited and the cat may be sold thereafter by the Animal Services Manager to any person.

(I) No cat shall be released from the Animal Services Shelter unless the cat is microchipped under this Chapter.

(J) Disposal of Cats. If any cat is not redeemed or sold, the cat may be humanely destroyed and the carcass disposed of in any lawful manner.
5-6-12: UNLAWFUL INTERFERENCE:

It shall be unlawful for any person to hinder, or interfere with any City Police or Animal Services officer who is seizing any animal, euthanizing the same, or removing the carcass under this Chapter.

5-6-13 AT RISK DOGS.

(A) An at risk dog is one that:

(1) Menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person.

(2) Causes physical injury to any domestic animal while at large.

(3) Repeatedly runs at large.

(B) Procedure for classifying a dog as at risk:

(1) An Animal Services Officer shall investigate the circumstances of any complaint filed against a dog alleged to be at risk and notify the dog owner of the charge. The results of the investigation will be reported to the Animal Services Manager and to the dog owner. If the Animal Services Manager deems the dog to be at risk, the dog owner has the option of filing an appeal with the courts. The dog owner shall file such appeal with the courts within thirty (30) days from the date of the designation.

(2) Notwithstanding the above, the Animal Services Manager or his representative shall have discretionary authority to refrain from classifying a dog as at risk (potentially dangerous), even if the dog has engaged in the specified behaviors, if it can be determined that the behavior was:

(a) The result of the victim abusing or tormenting the dog;

(b) Was directed towards a trespasser or a person committing or attempting to commit a crime; or

(c) Involved other similar mitigating or extenuating circumstances.

(C) Sanctions for owning an at risk dog:

(1) The owner must provide secure fencing to keep the dog confined on his own property. When off the owner's property, the dog must be kept on a secure leash of no more than four feet (4’) in length and under control of a legally responsible person. The owner must also place photos of the dog on file with Animal Services, microchip the dog for identification and provide proof of liability insurance that covers injuries.
(D) Repeated violations of Section 5-6-13 (A)(1) or (2) will result in classifications of the dog as dangerous.

(E) If there have been no further incidents for a period of eighteen (18) months and the owner can provide proof of obedience training at a reputable club or business, he may appeal to Animal Services for removal of the designation.

5-6-14 DANGEROUS DOGS.

(A) A dangerous dog is one that:

(1) Has previously been classified as at-risk and exhibits escalating aggressive behaviors that result in further complaint.

(2) A dog that, without provocation, inflicts severe injury on a human being.

(3) Menaces, maims, or kills domestic animals when off its owner's property.

(4) Is used in the commission of a crime, including but not limited to animal fighting or guarding illegal operations.

(B) Procedure for classifying a dog as dangerous:

(1) The animal control officer shall investigate the circumstances of any complaint filed against a dog alleged to be at risk and notify the dog owner of the charge. The results of the investigation will be reported to the Animal Services Manager and to the dog owner. If the Animal Services Manager deems the dog to be dangerous, the dog owner has the option of filing an appeal with the courts. Such appeal shall be within ten (10) days of the designation as a dangerous dog. Depending on the circumstances, the dog may be impounded pending disposition of the case.

(2) Notwithstanding the above, the Animal Services Manager or his representative shall have discretionary authority to refrain from classifying a dog as dangerous, even if the dog has engaged in the specified behaviors, if it can be determined that the behavior was:

(a) The result of the victim abusing or tormenting the dog.
(b) Was directed towards a trespasser or a person committing or attempting to commit a crime.
(c) Involved other similar mitigating or extenuating circumstances

(C) Sanctions for Owning a Dangerous Dog: A dangerous dog may be returned to the owner or may be destroyed depending on the outcome of the investigation. If the dog is returned to the owner, it must be microchipped, confined in a locked pen with a top when not in a home or other building, and restricted by a sturdy leash no longer than four feet long when in public. Photos of the dog must be filed with Animal Services and the owner must provide proof of at least one hundred thousand dollars ($100,000) in liability insurance.
(D) Confinement of Dangerous Dogs: Dogs that have been classified as dangerous must be confined behind a locked fence of sufficient height and materials to securely contain the dog and prevent trespass. Confinement must be sufficient to prevent children from coming into contact with the dog. When off the owner's property, a dangerous dog must be restricted by a leash of no more than four (4) feet in length, must be under the control of a legally responsible person, and may be required to wear a muzzle.

(E) Transporting Dangerous Dogs: Dogs that have been classified as dangerous must be confined in a crate in a closed, locked vehicle to prevent opportunities for escape and in a manner sufficient to prevent children from coming into contact with the dog through an open window in a vehicle.

(F) Additional Incidents: Additional incidents sufficient to identify the dog as dangerous and will result in destruction of the dog.

(G) Penalties for Dangerous Dogs Running at Large:

(1) If an owner is allowed to keep the dangerous dog as set forth in subsections (C), (D) and (E) above, if that dangerous dog then runs at large and repeats the behavior that earned the designation will be impounded and euthanized.

(2) Dangerous dogs that run at large without repeating the behavior may be returned to their owners at the discretion of Animal Services after reviewing the case and inspection of the confinement facility.

(3) It shall be unlawful for any person to fail to confine their dangerous dogs out of carelessness or neglect.

5-6-15 IMPOUND AND BOARDING FEES.

(A) For the purposes of this Chapter, the impound fee and board fee shall be in an amount set from time to time by Resolution of Council.

(B) It shall be unlawful for any owner of an animal to refuse to pay the impounding or boarding fees established by Council. (Ord. 2964, 8-14-14)

5-6-16 DOG DEFECATION TO BE REMOVED BY DOG OWNER.

(A) No person owning, keeping or having in his or her immediate care or custody any dog shall knowingly fail or neglect to clean up any feces of the dog immediately and dispose of it in a sanitary manner whenever the dog has defecated upon public or private property owned or within the control of another and without the consent of such public or private owner or person.

(B) The provisions of subsection A of this section shall not apply to a blind person being accompanied by a guide dog or signal dog, nor shall they be construed to require or countenance any act of trespass upon private property. Whenever the feces to be cleaned up cannot be reached without an unlawful trespass upon the private property on which the feces is located, the person having the duty pursuant to subsection A of this section to clean it up shall first obtain permission to do so from
the owner or person in lawful possession or charge of the property. If a property owner does not consent to the owner of the dog cleaning up the feces, then subsection A of this Section will not apply to the dog owner.
CHAPTER 7
EXHIBITION AND DISCHARGE OF FIREARMS AND WEAPONS

SECTION:

5-7-1: Exhibition and Discharge of Firearms and Weapons Prohibited

5-7-1 EXHIBITION AND DISCHARGE OF FIREARMS AND WEAPONS PROHIBITED.

(A) Firearm. Any weapon, device or instrument from which a shot, shell, pellet, BB, bullet or other projectile may be discharged by or through the force of exploding gunpowder, combustion, gas and/or other explosive material.

(B) Weapon.

(1) Any instrument used in the propulsion or discharge of any projectile capable of causing bodily injury by or through the release of a pressurized gas, compressed air, expanding gas, accelerant, spring, or other force-producing means including, but not limited to, a blow gun, air rifle, spring gun, wrist rocket, sling shot, airsoft gun, electroshock gun (e.g., Tasers), BB gun, pellet gun, paintball gun, rocket having a propellant charge of more than four (4) ounces, bow, compound bow, crossbow, recurve bow, atlatl, and sling; or

(2) Any instrument designed to or capable of inflicting death or serious bodily injury when discharged, propelled, or thrown, including, but not limited to, a grenade, bomb, missile having an explosive or incendiary charge of more than one-quarter (1/4) ounce, spear, hatchet, ax, knife, sling, throwing star, and sword.

(3) Weapon shall not include a starter pistol or similar instrument designed and operated as a noisemaker if, upon firing, no projectile is propelled or discharged; a toy such as a water gun, cap gun, squirt gun; or a toy that propels or discharges a projectile unlikely to cause bodily injury.

(C) Prohibited Acts.

(1) It shall be unlawful, in the presence of another, to exhibit or draw a weapon during a fight or quarrel, regardless of the intent of the person exhibiting or drawing the weapon.

(2) It shall be unlawful for any person to point or direct any weapon at another, regardless of the intent of the person pointing or directing the weapon.

(3) It shall be unlawful for any person to discharge or allow to be discharged a firearm or weapon within the City, regardless of the intent of the person discharging the firearm or weapon.

CITY CODE OF THE CITY OF IDAHO FALLS 254
(D) Exceptions. This Chapter shall not apply to:

(1) a firearm or weapon exhibited, drawn, pointed, directed, or discharged by a law enforcement officer, animal control officer, or other person authorized to perform law enforcement duties when such person is acting in the course and scope of his or her duties;

(2) the discharge of a firearm or weapon at an established shooting gallery, archery range, gun club, paintball range, or the like, which is permitted by Zoning Code; or

(3) the discharge of a firearm or weapon at a temporary or short-term event or use for which the Mayor, Council, or Police Chief has given prior written authorization; a copy of such written authorization shall be provided to the Police Chief prior to the event or use and shall be subject to revocation at any time by action of the City.

(E) Defense to violation. It shall be a defense to a violation of this Chapter where a person exhibiting, drawing, pointing, directing, or discharging a firearm or weapon did so in the lawful defense of person, persons, property, dwelling, or residence.

(F) Fireworks. Nothing in this Chapter shall be construed to modify or affect state or City law governing the discharge of fireworks.
CHAPTER 8
LITTER AND WEED CONTROL

SECTION:

5-8-1: Purpose
5-8-2: Definitions
5-8-3: Littering Prohibited
5-8-4: Deposit of Litter in Receptacles
5-8-5: Deposit of Petroleum Products
5-8-6: Littering From Vehicles
5-8-7: Dropping Material From Aircraft
5-8-8: Improper Hauling of Litter
5-8-9: Posting Notices
5-8-10: Posting Handbills or Signs
5-8-11: Accumulation of Litter Upon Private Property
5-8-12: Removal of Weeds
5-8-13: Litter Violation
5-8-14: Notice to Abate
5-8-15: Appeal
5-8-16: City Abatement

5-8-1 PURPOSE.

The accumulation of waste, refuse, trash, garbage, rubbish, litter and other deleterious substances upon public and private property and in streets and alleys, rights-of-way, tree lawns, and the like, within the City detracts from the appearance of the City and reduces property values. The accumulation of such deleterious substances also increases the spread of contagious diseases and infections, and creates a health and safety hazard to children. It is necessary for the preservation of health, safety, sanitation and the public welfare that proper and adequate regulations be adopted to require property owners, tenants and all persons having control of real property and the storage, disposal and accumulation of deleterious substances, to remove and dispose of such deleterious substances in the manner specified in this Chapter. (Ord. 2968, 10-9-14)

5-8-2 DEFINITIONS.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

Aircraft. Any craft designed for navigation or flight in air.

Garbage. Any waste resulting from the preparation, cooking, consumption or handling of food or other edible substance, whether for human or animal consumption, including without limitation, waste from the handling, storage and sale of produce.

Handbill. Any printed or written matter, sample, circular, leaflet, pamphlet, booklet, or any other printed literature of any kind.
Junk. Any waste consisting of any mechanical appliance, vehicle, machinery, equipment or apparatus, or any parts therefrom, including without limitation, all non-functional appliances, automobiles, automobile parts, recreational vehicles, boats, snowmobiles, motorcycles, farming and construction equipment.

Litter. Garbage, junk, refuse, waste, and weeds as defined in this Chapter.

Noxious weed. Any plant classified by the Director of the Idaho State Department of Agriculture as a "noxious weed" in Title 06, Chapter 22 of the Idaho Administrative Procedures Act (IDAPA), as amended from time to time.

Occupant. Any person having control, possession or charge over real property.

Owner. Any person having a fee ownership in real property.

Refuse. All materials of any kind or nature, including, but not limited to, handbills, newspapers, papers, cartons, boxes, barrels, shrubs, tree trunks (other than stumps in the ground), wood, brush, weeds, branches, yard trimmings, leaves, furniture, bedding, tin cans, metals, bottles, ashes, clinkers, automobile bodies and parts, appliances, broken glass, broken concrete, rock, crockery, mineral waste, street sweepings, industrial waste, sawdust, lumber scraps, shavings, animal carcasses, wire and plastics.

Waste. Any material or items for which a reasonable person would conclude there is no practical use other than for recycling (rather than resale), and which if placed or deposited as prohibited in this Chapter is markedly offensive or unsightly; or which creates an offensive odor; or is unsanitary or unsafe; attracts insects or rodents; or in any way creates a public nuisance or health or safety hazard.

Weeds. Any plant, growing or dead, more than ten (10”) inches in height, measured from the surface of the ground, except plants grown for ornamental purposes or for production of food for man or beast, and any noxious weed, regardless of height. (Ord. 2968, 10-9-14; Ord. 3176, 04-12-18)

5-8-3 LITTERING PROHIBITED

No person shall deposit litter in or upon any private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way, or upon any publicly-owned property within the City, except in receptacles designed therefor. (Ord. 3054, 01-26-16)

5-8-4 DEPOSIT OF LITTER IN RECEPTACLES.

No person shall deposit litter in any receptacle in a manner which exceeds the capacity of such receptacle or which will create a likelihood of its being blown or carried by the elements upon any public place or private property. (Ord. 3054, 01-26-16)

5-8-5 DEPOSIT OF PETROLEUM PRODUCTS.

No person shall pour or deposit oil or any other petroleum product upon any private property, canal right of way, public street, alley, sidewalk, park or other public property, provided nothing herein shall
prevent the use of oil, asphalt or other petro-chemicals for the purpose of construction, maintenance or operation of a street or alley.

5-8-6 LITTERING FROM VEHICLES.

No person shall throw, or permit to be thrown from any vehicle, any litter or handbills while a driver or passenger in a vehicle being operated upon a public street or alley. (Ord. 3054, 01-26-16)

5-8-7 DROPPING MATERIAL FROM AIRCRAFT.

No person in any aircraft shall throw out any litter or handbills while flying over the City. (Ord. 3054, 01-26-16)

5-8-8 IMPROPER HAULING OF LITTER.

It is unlawful for any person to haul litter, or otherwise operate a vehicle carrying litter, in any manner which causes litter to be deposited or to accumulate upon any private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way, or upon any publically-owned property within the City, upon any public street, sidewalk or private property, or which creates a reasonable likelihood that litter will be blown, dropped or spilled therefrom. (Ord. 3054, 01-26-16; Ord. 3176, 04-12-18)

5-8-9 POSTING NOTICES.

No person shall post or affix any handbill upon any public utility pole, sign post, lamp post, telephone pole, shade tree or upon any public structure or building, except as may be expressly authorized or required by law. (Ord. 3054, 01-26-16)

5-8-10 POSTING HANDBILLS OR SIGNS.

No person shall post or affix any handbill or sign to any building, structure, tree or appurtenance owned by any other person, without the consent of the owner or occupant thereof. (Ord. 3054, 01-26-16)

5-8-11 ACCUMULATION OF LITTER UPON PRIVATE PROPERTY.

It shall be unlawful and a public nuisance for any person owning, occupying, or having control of private property within the City to deposit, store or allow the accumulation of litter upon such property, except:

(A) The temporary storage or accumulation of construction debris or materials in a manner which prevents the same from being blown upon adjoining property, while a building or structure is being constructed upon the premises, or during remodeling or reconstruction thereof.

(B) Upon any property owned or operated by any recycler, salvage dealer, or junk yard dealer licensed by the City, subject to all provisions and restrictions contained in any ordinance or statute governing the operation of such licensed business. (Ord. 3054, 01-26-16; Ord. 3176, 04-12-18)

5-8-12 REMOVAL OF WEEDS.
It shall be unlawful and a public nuisance for any owner(s) or occupant(s) or for controller(s) of any real property within the City to allow weeds to grow, exist or accumulate upon such real property. (Ord. 3054, 01-26-16)

5-8-13 LITTER VIOLATION.

The hauling or allowing of litter to accumulate in violation of this Code is an infraction for every twenty-four (24) hour time period that such litter is not removed following City notice to remove unless the litter is not removed after seventy-two (72) hours following the first notice of infraction, after which the violation automatically becomes a misdemeanor. (Ord. 3054, 01-26-16; Ord. 3176, 04-12-18)

5-8-14 NOTICE TO ABATE.

(A) Whenever a violation of this Chapter comprises a public nuisance, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) of the premises requiring abatement of the nuisance identified in this notice.

(B) Said notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or controller(s) of the premises. Service of notice may be accomplished through personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall abate the nuisance within ten (10) calendar days after the date of the notice; that the owner(s), occupant(s), or person(s) in control of the property given the notice may, within ten (10) calendar days following receipt of the notice, deliver in writing to the City Clerk his or her objections to the abatement of the nuisance and request an appeal hearing before a panel comprised of three (3) members of the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council.

(D) Where the Director of Community Development Services determines that abatement of the nuisance requires more than ten (10) days to abate, the Director may defer abatement of such nuisance; however, any appeal of such an abatement notice (along with the proper fee for appeal) shall be filed ten (10) calendar days after receipt of such notice. The Director’s deferral of abatement shall be in writing and shall identify a date by which the nuisance shall be abated. Failure to abate the nuisance on or before the deferral date is a violation of this Chapter. (Ord. 3176, 04-12-18)

5-8-15 APPEAL.

Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within ten (10) business days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the nuisance. At the
appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to abatement of the nuisance under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to nuisance abatement, abatement of the nuisance shall take place within ten (10) calendar days following the decision by the Board of Adjustment panel. (Ord. 3176, 04-12-18)

5-8-16 CITY ABATEMENT

(A) City is authorized to use public funds to abate a weed nuisance.

(B) If the property owner(s) or occupant(s) or person(s) in control of the property fails to abate a weed nuisance within ten (10) calendar days following a final decision regarding the weed nuisance, the City may enter the property and commence abatement, pursuant to Idaho Code.

(C) If the City abates the weed nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code. (Ord. 3176, 04-12-18)
CHAPTER 9
SWIMMING AND BOATING

SECTION:

5-9-1: Definitions
5-9-2: Registration of Boats
5-9-3: Regulations For Operation of Boats or Watercraft
5-9-4: Air Tanks and Life Preservers
5-9-5: Riding on Decks and Gunwales
5-9-6: Restricted Areas
5-9-7: Litter Prohibited
5-9-8: Jumping From Structures Over Snake River
5-9-9: Swimming and Boating Near Hydroelectric Structures

5-9-1  DEFINITIONS.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

Motorboat. Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, but shall not include a vessel which has a valid marine document issued by the Bureau of Customs of the United States government or any Federal agency successor thereto.

Operate. To navigate or otherwise use a motorboat or vessel.

Owner. A person, other than a lien holder, having an interest in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment of performance of an obligation, but the term excludes a lessee under a lease not intended as security.

Person. An individual, partnership, firm, corporation, association or other entity.

Vessel. Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Watercraft. Any contrivance used or designed for navigation on water.

Waters of this city. Any waters within the jurisdiction of the City.

5-9-2  REGISTRATION OF BOATS.

No person shall operate or give permission for the operation of any motorboat on the waters of this City unless the motorboat is registered in accordance with the provisions of Chapter 70, Title 67, Idaho Code.

5-9-3  REGULATIONS FOR OPERATION OF BOATS OR WATERCRAFT.
No person shall operate any boat or watercraft on any of the waters of this City in such a manner as to endanger life or property or in violation of the following requirements:

(A) No boat or watercraft propelled by machinery shall be operated at a speed greater than ten (10) miles per hour when within fifty feet (50') of another craft, nor at a speed in excess of ten (10) miles per hour at any time unless vision is unobstructed for at least three hundred feet (300') ahead, and no boat or watercraft propelled by machinery shall approach any dock, pier or shore of any river, lake or reservoir except at a reduced and safe rate of speed.

(B) No boat or watercraft shall be operated during the period between thirty (30) minutes after sundown and sunrise without being equipped with a white light stern to show all around the horizon, and if such boat or watercraft is propelled by machinery without being equipped, in addition to such white light, with a combined lantern in the forepart of the vessel and lower than the white light aft, showing green to starboard and red to port, so fixed as to throw the light from right ahead to two (2) points abaft the beam on their respective sides.

(C) No boat propelled in whole or in part by gas, gasoline, naphtha, or any petroleum product, shall be operated unless the same is provided with an exhaust or muffler device so constructed and used as to muffle the noise of the exhaust, and no such boat shall be operated with a cut-out or any such device which shall make the muffler ineffective.

(D) Boat traffic shall be governed by the following right-of-way rules:

(1) Passing from rear: keep to the left.

(2) Passing head-on: keep to the right.

(3) Passing at right angles: boat at the right has right-of-way, other conditions being equal.

(4) Sailboats have right-of-way over all other boats. Motorboats, when passing sailboats, shall always pass on windward side.

(5) Any boat backing from a landing, dock or pier, has the right-of-way over incoming boats.

5-9-4 AIR TANKS AND LIFE PRESERVERS.

Unless a boat or watercraft is capable of floating when capsized, no such boat or watercraft shall be operated on the waters of the City unless equipped with air tanks of sufficient capacity to sustain afloat such boat or watercraft when full of water; nor shall any boat or watercraft be operated on any of the waters of this City without carrying one life preserver, life belt, buoyant cushion or ring buoy for each person on board.

5-9-5 RIDING ON DECKS AND GUNWALES.

No person operating a motorboat of eighteen feet (18') or less in length shall allow any person to ride or sit on either the starboard or port gunwales thereof or on the decking over the bow of the vessel.

CITY CODE OF THE CITY OF IDAHO FALLS 262
while underway unless such motorboat is provided with adequate guards or railing to prevent passengers from being lost overboard. Nothing in this Section shall be construed to mean that passengers or other persons aboard a motorboat cannot occupy the decking over the bow of the boat to motor the watercraft to a mooring buoy or to cast off from such a buoy, or for any other necessary purpose.

5-9-6  RESTRICTED AREAS.

No person shall operate a watercraft within a water area which has been clearly marked by, or under the authority of the Chief of Police or the Director of Idaho Falls Power, as a bathing, swimming or otherwise restricted area; provided, that this Section shall not apply in the case of an emergency, or to patrol or rescue craft. The Chief of Police or the Director of Idaho Falls Power is hereby authorized to designate and clearly mark the restricted areas of the waters of this City. (Ord. 3003, 04-23-15)

5-9-7  LITTER PROHIBITED.

No person shall throw, deposit or cause to be deposited, any glass, metal, debris, rubbish or other material in the waters of the City, or along the banks of any stream therein.

5-9-8  JUMPING FROM STRUCTURES OVER SNAKE RIVER.

It shall be unlawful for any person to jump, dive or drop from any part of the following structures which cross over the Snake River: the John's Hole Bridge; the Broadway Street Bridge; the Pancheri Drive Bridge; the railroad bridges located south of the Broadway Street Bridge; the pedestrian bridge located immediately south of the Broadway Street Bridge; the sanitary sewer line that crosses the Snake River near Short Street and the sanitary sewer line that crosses the Snake River near the City waste water treatment plant.

5-9-9  SWIMMING AND BOATING NEAR HYDROELECTRIC STRUCTURES.

It shall be unlawful for any person to swim in, water ski or operate a boat, canoe, kayak or other craft upon the waters of the Snake River between any buoy or boundary line designated by a readily visible warning sign, and any dam, diversion weir or structure or hydroelectric generating intake structure owned or operated by the City. Such warning signs shall contain the following language: "WARNING: Swimming, water skiing or boating downstream (or upstream, as the case may be) of this sign is prohibited," or such other language as will fairly warn of the prohibition of this Section.
CHAPTER 10
PROHIBITION OF GRAFFITI

SECTION:

5-10-1: Findings and Purpose
5-10-2: Definitions
5-10-3: Graffiti Removal Required
5-10-4: Notice to Abate Nuisance
5-10-5: Appeal
5-10-6: Exceptions to Removal
5-10-7: City Abatement
5-10-8: Penalty

5-10-1 FINDINGS AND PURPOSE.

(A) The Council finds that graffiti is a public nuisance and destructive of the rights and values of property owners as well as the entire community. Unless the City acts to remove graffiti from public and private property, the graffiti tends to remain, thereby causing other properties to become the target of graffiti and entire neighborhoods become less livable, all to the detriment of the City. The Council also finds that graffiti leads to other, more violent crimes and gang related activity. The City shall be entitled to abate the nuisance of graffiti pursuant to Idaho Code and other applicable laws.

(B) The purpose of this Chapter is:

(1) To prevent the spread of graffiti vandalism and to establish a program for the removal of graffiti from public and private property.

(2) To provide additional enforcement tools to protect public and private property from acts of graffiti vandalism and defacement.

5-10-2 DEFINITIONS.

For the purposes of this Chapter, certain terms shall have the meanings ascribed below:

Graffiti: Any inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved upon any surface of public or private property by any implement, when application of the mark was not expressly authorized in advance by the owner, occupant or authorized representative of the owner of the property.

5-10-3 GRAFFITI REMOVAL REQUIRED.

(A) The existence of graffiti on public or private property is hereby declared to be a public nuisance and persons owning or controlling property having graffiti thereon shall be subject to the removal and abatement provisions specified in this Chapter.
(B) The owner(s), occupant(s), or person(s) in control of the premises upon which graffiti has been applied shall remove the graffiti within forty-eight (48) hours after notice is given or within forty-eight (48) hours following denial of an appeal pursuant to this Chapter. (Ord. 3178, 04-12-18)

5-10-4 G NOTICE TO ABATE NUISANCE.

(A) Whenever graffiti is located on any public or private property or any surface visible from any public right of way within the City, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) of the premises requiring abatement of the nuisance and the removal of the graffiti or the covering of the graffiti with paint or other substance(s) that masks the graffiti from public view.

(B) Said notice shall be served upon the owner(s) of the affected premises, as shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or controller(s) of the premises. Service of notice may be accomplished by personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall remove graffiti within forty-eight (48) hours of receipt of the notice; that the owner(s), occupant(s), or person(s) in control of the property given the notice may, within forty-eight (48) hours of receipt of the notice, deliver in writing to the City Clerk his or her objections to the removal of the graffiti and request an appeal hearing before a panel comprised of three (3) members of the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council. (Ord. 3178, 04-12-18)

5-10-5 APPEAL.

Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within twenty (20) calendar days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the graffiti. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to removal under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to removal, abatement of the nuisance shall take place within forty-eight (48) hours following the decision by the Board of Adjustment panel. (Ord. 3178, 04-12-18)

5-10-6 EXCEPTIONS TO REMOVAL.

The removal requirements in this Chapter shall not apply if the property owner(s), occupant(s), or person(s) in control of the property or their representative can demonstrate by a preponderance of the evidence that:

(1) If the City removes the graffiti, it will cause irreparable harm to property; or
(2) The alleged markings are not “graffiti”, as that term is defined in this Chapter. (Ord. 3178, 04-12-18)

5-10-7 CITY ABATEMENT

(A) City is authorized to use public funds to abate a graffiti nuisance.

(B) If the property owner or occupant or person in control of the property fails to remove the graffiti within forty-eight (48) hours following a final decision regarding the graffiti, the City may enter the property and commence abatement pursuant to Idaho Code.

(C) If the City abates the nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code. (Ord. 3178, 04-12-18)

5-10-8 PENALTY.

It shall be unlawful for any person to violate any provision of this Chapter. In addition to any punishment, fine, or penalty specified in this Chapter, a Court may order any violator to make restitution to any victim for damages or loss caused directly or indirectly by the violator's offense in the amount or manner determined by the Court. In the case of a minor, the parents or legal guardian may be ordered to make such restitution. (Ord. 3178, 04-12-18)
CHAPTER 11
NON-DISCRIMINATION IN EMPLOYMENT AND HOUSING

SECTION:

5-11-1: Purpose and Declaration of Policy
5-11-2: Definitions
5-11-3: Prohibited Discriminatory Acts
5-11-4: Exceptions
5-11-5: Penalties
5-11-6: Coercion, Intimidation, Threat and Interference Prohibited
5-11-7: No Private Right of Action or Money Damages

5-11-1 PURPOSE AND DECLARATION OF POLICY.

A. The City has determined that discrimination on the basis of sexual orientation and/or gender identity/expression shall be prohibited, as set out in this Chapter, in order to help ensure that all persons, regardless of sexual orientation and/or gender expression/identity, are afforded equal opportunities in employment and housing.

B. It is hereby declared that every person in the City has the right to work and to earn wages through gainful employment and that every person has the right to seek housing. Discriminatory practices are detrimental because they impede the social and economic progress by preventing all of the City’s occupants from contributing to the cultural, spiritual, social, and commercial life of the community. Such contributions are fundamental components of the City’s growth, vitality, and prosperity.

C. It is the intent of this Chapter that all persons be treated fairly and equally. It is the express intent of this Chapter to foster and support fair and equal treatment under the law to all people in the City. The denial of fair and equal treatment under the law in employment or housing due to sexual orientation and/or gender identity/expression is detrimental to the health, safety, and welfare of the City’s occupants, and such damages a city’s economic well-being.

D. This Chapter shall be deemed an exercise of the police power of the City for the protection of the public welfare, prosperity, health and peace of the City, its residents, occupants, and the community at large.

E. The prohibitions against discriminatory acts, as provided for in this Chapter, are intended to supplement State and Federal Civil Rights Laws and Regulations prohibiting discrimination in the areas of employment and housing; therefore, this Chapter shall not apply to complaints alleging discrimination on a basis proscribed under State or Federal law (e.g. race, color, religious creed, ancestry, age, sex, national origin, familial status, veteran’s status, and/or disability).

F. Nothing in this Chapter is intended to alter or abridge other rights, protections, or privileges secured under the State and/or Federal law, including religious rights and protections. This Chapter shall not create a private cause of action, nor shall it create any right or remedy that is the same or substantially equivalent to remedy provided under Federal or State law.
G. This Chapter shall not create any special rights or privileges which would not be available to all of the City’s inhabitants, because every person has a sexual orientation and a gender identity.

H. This Chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence regarding the freedom of speech and exercise of religion.

5-11-2 DEFINITIONS.

A. Discriminate/Discrimination. Any direct or indirect exclusion, distinction, segregation, limitation, refusal, denial, or other differentiation in the treatment of a person because of a person’s actual or perceived sexual orientation or gender identity/expression or because of a person’s association with any such person. “Discrimination” shall not mean and shall not be interpreted to require or to grant or to accord any preferential treatment to any person because of that person’s orientation or gender expression/identity.

B. Educational Institution. A public or private institution, including an academy; college; elementary or secondary school; extension course; kindergarten; nursery; school system; university; business; nursing; professional, secretarial, technical, or vocational school; or agent of such an educational institution.

C. Gender Identity/Expression. Actual or perceived gender-related characteristics, identity, appearance, expression or behavior of a person, regardless of such person’s biological or assigned sex at birth.

D. Otherwise Qualified. Possessing the bona fide job-related qualifications required by an employer for particular job classification or position, such as education; training; ability; character; integrity; disposition to work; adherence to reasonable rules and regulations (including established dress codes, appropriate utilization of bathroom facilities, etc.); and other bona fide job-related qualifications required by an employer.

E. Sexual Orientation. Actual or perceived homosexuality, heterosexuality, and/or bisexuality.

5-11-3 PROHIBITED DISCRIMINATORY ACTS.

A. Unlawful Employment Practices.

1. Employer Practices. Where a person is otherwise qualified, it shall be an unlawful employment practice for an employer:

   a. to fail or refuse to hire or to discharge any person, or otherwise to discriminate against any person with respect to compensation, terms, conditions, or privileges of employment, because of such person’s sexual orientation or gender identity/expression; or,

   b. to limit, segregate, or classify employees or applicants for employment in any way which would deprive or tend to deprive any person of employment opportunities or otherwise adversely affect status as an employee, because of such person’s sexual orientation or identity/expression.
2. Employment Agency Practices. Where a person is otherwise qualified, it shall be an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any person because of sexual orientation or gender identity/expression, or to classify or refer for employment any person on the basis of sexual orientation or gender identity/expression.

3. Labor Organization Practices. It shall be an unlawful employment practice for a labor organization:

   a. to exclude or to expel from its membership or otherwise to discriminate against, any person because of sexual orientation or gender identity/expression;

   b. to limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any person otherwise qualified, in any way which would deprive or tend to deprive any person otherwise qualified of employment opportunities, or would limit such employment opportunities or otherwise adversely affect status as an employee or as an applicant for employment, because of such person’s sexual orientation or gender identity/expression; or,

   c. to cause or attempt to cause an employer to discriminate against a person in violation of this section.

4. Training Programs. It shall be an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any person, otherwise qualified because of sexual orientation or gender identity/expression in admission to, or employment in, any program established to provide apprenticeship or other training.

B. Unlawful Housing Practices. It shall be an unlawful housing practice:

1. to refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of sexual orientation or gender identity/expression;

2. to discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of sexual orientation or gender identity/expression;

3. to make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on sexual orientation or gender identity/expression or an intention to make any such preference, limitation, or discrimination;

4. to represent to any person because of sexual orientation or gender identity/expression that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available; or
5. for profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons’ sexual orientation or gender identity/expression.

5-11-4 EXCEPTIONS.

A. This Chapter shall not apply to:

1. a religious corporation, association, educational institution, or society, trust or any entity or association which is a wholly owned or controlled subsidiary or agency of any religious corporation, association, society, trust, or corporation sole;

2. an expressive association whose employment of a person protected by this Chapter would significantly burden such association’s rights of expressive association under Boy Scouts of America v. Dale, 530 U.S. 640 (2000); and,

3. the United States Government, any of its departments, agencies, or any corporation(s) wholly owned by it; and the State of Idaho, any of its departments, agencies, bodies corporate and politic, and political subdivisions, or any corporation(s) wholly owned by them, except the City of Idaho Falls, Idaho.

B. This Chapter shall not apply to:

1. the sale or rental of a one family dwelling where the owner:
   a. does not own an interest in or title to four (4) or more one family dwellings within the City;
   b. has not sold two (2) or more one family dwellings within the twenty-four (24) month period immediately preceding such a sale or rental; and,
   c. such one family dwelling(s) were sold or rented without engaging the services of any real estate broker, agent, salesperson, property manager, or other person engaged in the services of any real estate broker, agent, salesperson, or property manager or other person engaged in the business of selling or renting dwellings.

2. the rental of a unit in a one, two, three or four-family dwelling where the owner continues to reside in one unit of such a dwelling;

3. employment practices of an owner or tenant which occur within the dwelling where such owner or tenant is residing; and,

4. a person, business, or enterprise who hires fewer than five (5) employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, whose services are to be partially or wholly performed in the State of Idaho.
5-11-5 PENALTIES.

A. First Offense. Any person found in violation of any of the provisions of this Chapter shall be guilty of an infraction for the first offense and shall be punished as provided in the Idaho Infraction Rules and in a fine amount set by Resolution of the Council from time to time. There shall be no right to trial by jury for an infraction.

B. Subsequent Offense(s). Any person found in violation of any of the provisions of this Chapter within five (5) years of any previous violation of any of the provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished pursuant to this Code.

C. A misdemeanor violation may be reduced to an infraction, payable by a fine as set by Resolution of the Council from time to time, if the defendant engages in corrective action, which may include, but is not limited to the following: sensitivity training for the defendant and/or the defendant’s agreement to adopt and pursue a policy of non-discrimination in its practices; and/or the defendant’s agreement to not engage in discriminatory practices in the future.

D. A complaint filed under the provisions of this Chapter shall be filed within one hundred eighty (180) days of the alleged discriminatory conduct made the basis of the complaint.

5-11-6 COERCION, INTIMIDATION, THREAT AND INTERFERENCE PROHIBITED.

It shall be unlawful to coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of having exercised or enjoyed, or on account of having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by this Chapter.

5-11-7 NO PRIVATE RIGHT OF ACTION OR MONEY DAMAGES.

There is no private right or cause of action created by this Chapter. No money damages are available to any person based on this Chapter.
CHAPTER 12
JUVENILE CURFEW

5-12-1:  Definitions.

Emergency. An unforeseen circumstance or combination of circumstances that requires immediate action to safeguard life, limb, or property. This term includes, but is not limited to, a fire, natural disaster, automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

Employment activity. Activities that are within the course and scope of the juvenile’s employment. This shall include traveling between the juvenile’s residence and the juvenile’s employment.

Establishment. Any privately owned place of business operated for a profit to which any portion of the public is invited, including, but not limited to, any place of amusement or entertainment.

Employment. Gainful employment undertaken by the juvenile.

Operator of an establishment. Persons authorized with management responsibilities who are on the premises of the establishment at the time in which a juvenile is located on the premises.

Parent. A person who is (1) a natural parent, adoptive parent, or step-parent of a juvenile; or (2) at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a juvenile. This shall not include a foster parent.

Public place. Any place to which the public or a substantial group of the public has access, including but not limited to, streets, alleys, sidewalks, parking lots, parks, and transportation facilities.

Remain. To stay at or upon a place or to fail to depart when requested to do so by a police officer or a person with authority to act in the interest of the establishment or public place at which the juvenile is located.

All other terms used in this Chapter shall be consistent with the meaning of the same as they appear in Title 20, Chapter 5 of the Idaho Code.

5-12-2:  Curfew Hours Established.

Pursuant to Title 20, Chapter 5 of the Idaho Code, curfew hours in the City shall be the hours between 1:00 a.m. and 5:00 a.m. local time on every day of the week.

5-12-3:  Prohibited Acts.

(A) It shall be unlawful for any juvenile to be in a public place or on the premises of or in any establishment within the City during curfew hours.
(B) It shall be unlawful for any parent, legal guardian with legal and physical custody, or other person lawfully charged with the care or custody of a juvenile to knowingly permit, or, by insufficient control, allow the juvenile under the age of sixteen (16) to be in a public place or on the premises of or in any establishment within the City during curfew hours.

(C) It shall be unlawful for the operator of an establishment to, by any act or neglect, encourage, aid, or cause a juvenile to be on the premises of or in the establishment during curfew hours.

5-12-4: Exceptions.

(A) This Chapter shall not apply to a juvenile that is:

   (1) accompanied by the juvenile’s parent or legal guardian; or

   (2) within the property boundary of the juvenile’s residence.

5-12-5: Defenses.

(A) It shall be a defense to a violation of this Chapter that during curfew hours the offending juvenile was:

   (1) involved or assisting in an emergency situation; or

   (2) engaged in employment activity.

(B) It shall be a defense to a violation of this Chapter that the parent, legal guardian with legal and physical custody, or other person lawfully charged with the care or custody of an offending juvenile under the age of sixteen (16) took reasonable steps to control the conduct of such juvenile at the time the parent or legal guardian is alleged to have knowingly permitted or, by insufficient control, allowed such juvenile to violate this Chapter.

(C) It shall be a defense to a violation of this Chapter that, during curfew hours, the operator of an establishment:

   (1) promptly notified police that a juvenile was present at the establishment and refused to leave when requested; or

   (2) was given by the juvenile a fraudulent form of identification indicating the juvenile was over the age of seventeen (17).

5-12-6: Punishment.

(A) A violation of this Chapter by a juvenile or by the operator of an establishment shall be administered, enforced, and punished pursuant to Title 20, Chapter 5 of the Idaho Code.

(B) A violation of this Chapter by a parent, legal guardian with legal and physical custody, or other person lawfully charged with the care or custody of an offending juvenile shall be guilty of a
misdemeanor and shall be subject to a fine in an amount set from time to time by Resolution of Council. In lieu of imposing a fine, the parent, legal guardian, or other person may consent to completing parenting classes or undertaking other treatment or counseling; and upon the person’s completion of the classes, treatment or counseling, the person may be discharged; or if the person fails to complete the program, the person shall be subject to the penalties provided in Title 32, Chapter 13 of the Idaho Code.

(C) Any person violating the orders of the court entered in connection with a violation of this Chapter shall be subject to contempt proceedings in accordance with chapter 6, title 7, of the Idaho Code, in addition to any other penalties provided in the Idaho Code. (Ord. 2964, 8-14-14)
CHAPTER 13
PUBLIC SAFETY

SECTION:

5-13-1: Abandoned Refrigerators
5-13-2: Damaging Fire Hydrants
5-13-3: Abuse of Laser Pointing Devices

5-13-1: ABANDONED REFRIGERATORS: It shall be unlawful for any person to abandon or permit to remain in an abandoned state on any premises owned or over which he or she has control, any ice box, refrigerator, deep freeze or any appliance or air tight container which fastens automatically and which cannot be opened from the inside, without having first removed the lock or hinges from the door thereof.

5-13-2: DAMAGING FIRE HYDRANTS: It shall be unlawful for any person to willfully or carelessly drive or run any vehicle against any fire hydrant or to park any vehicle within fifteen feet (15') of any fire hydrant. Any person who shall injure or damage any fire hydrant by accident, or by carelessness or otherwise, shall immediately report such injury or damage to the Water Division and such person so injuring or damaging said hydrant shall be liable for any damage caused thereby. (Ord. 3003, 04-23-15; Ord. 3253, 05-13-19)

5-13-3: ABUSE OF LASER POINTING DEVICES: It shall be unlawful for any person to focus, point or shine a laser beam directly or indirectly on another person or animal in such a manner as to harass, annoy or injure such person or animal. Any person violating this sub-section shall be guilty of an infraction. (Ord. 3253, 05-13-19)
CHAPTER:       SUBJECT:

1           General Health Regulations
2           Fireworks
3           Day Care
CHAPTER 1
GENERAL HEALTH REGULATIONS

SECTION:

6-1-1: Outdoor Restroom Facilities
6-1-2: Dumping Refuse Unlawful
6-1-3: Unsanitary Premises
6-1-4: Unclean Barns and Enclosures
6-1-5: Depositing of Manure Prohibited
6-1-6: Noxious Trade
6-1-7: Dangerous Premises
6-1-8: Slaughterhouse Regulations
6-1-9: Dead Animals

6-1-1: OUTDOOR RESTROOM FACILITIES:

(A) Outdoor Restroom Facilities Prohibited: No person shall erect, place, maintain or keep, or allow to be erected, placed, maintained or kept, any water closet, privy, outhouse, portable outdoor toilet facility or similar restroom facility not connected to the public sewer on any public or private property within the City.

(B) Exceptions: The prohibition set forth in this Section shall not apply to: (1) temporary portable toilet facilities used by contractors engaged on work within the City for use of their employees if required by federal or state law or regulation, or, (2) temporary portable toilet facilities used for outdoor public air shows, parades or exhibitions, for a period of not longer than three (3) consecutive days and occurring no more than once in any calendar year.

(C) State Health Regulations: All temporary outdoor restroom facilities allowed under the preceding section shall comply with all applicable regulations of the State of Idaho, Department of Health and Welfare or the United States Department of Labor.

6-1-2: DUMPING REFUSE UNLAWFUL: No person shall dump, place or deposit any trash, refuse, matter, filth, waste, rags, paper, tin or aluminum cans or any substance likely to produce disease or infection on any lot, street, alley or public right-of-way within the City.

6-1-3: UNSANITARY PREMISES: No owner or occupant of any premises within the City shall cause or allow any portion of the premises or any structure on the premises to become nauseous, foul, offensive or injurious to the public health, or grossly unpleasant or disagreeable to the senses of adjacent residents or persons passing the premises.

6-1-4: UNCLEAN BARNs AND ENCLOSURES: No person shall maintain any barn enclosure, stable, building or yard for cattle, horses or any other animals or fowl within the City in such a condition as to be grossly offensive to neighbors or passers-by or injurious to the public health.

6-1-5: DEPOSITING OF MANURE PROHIBITED: No person shall deposit upon or allow any manure to be placed upon any City street, alley, sidewalk or right-of-way, provided however, this section shall not apply to persons in control of animals exhibited in any public parade or circus.
provided adequate arrangements are made to remove and dispose of manure deposited upon such streets, ways or sidewalks by animals exhibited in the parade or circus, during or immediately following the conclusion thereof.

6-1-6: NOXIOUS TRADE: No owner or occupant of any premises within the City shall conduct or engage in any trade, business or occupation that is dangerous, detrimental to the life, health or property of members of the public or which is grossly offensive to the public or otherwise constitutes a nuisance.

6-1-7: DANGEROUS PREMISES: No owner or occupant of any premises within the City shall keep, cause or allow the premises, any portion of the premises or any structure on the premises to fall into a condition that is dangerous or detrimental to life, health or property of members of the public.

6-1-8: SLAUGHTERHOUSE REGULATIONS: Every owner, lessee, tenant or occupant of any slaughterhouse, stable, building, structure or stall in which any animal or fowl is killed or in which any animal or fowl is kept, or of any place in which offal, manure or any liquid discharge of any animal or fowl collects or accumulates shall promptly remove such offal, liquid or manure to a proper place and shall at all times keep such slaughterhouse, stable, building structure or stall in a clean and wholesome condition and reasonably free from offensive smells.

6-1-9: DEAD ANIMALS: No person shall deposit any dead animal or fowl on any City street, alley, sidewalk or right-of-way or on any private lot within the City not owned or occupied by that person. No person shall cause or allow any dead animal or fowl to remain for an unreasonable length of time on any property owned or occupied by that person and located within the City.

6-1-10: FEEDING OF BIRDS AND WATER FOWL PROHIBITED. Unless specifically authorized, it shall be a City infraction for a person to feed, or allow to be fed, any birds, waterfowl or fowl, including but not limited to ducks, geese, swans, seagulls, pelicans, pigeons, doves, and other birds on or in any City-owned or City-maintained property, park, or right-of-way.

(Ord. 2922, 07-25-13)
CHAPTER 2
FIREWORKS

6-2-1: Fireworks
6-2-2: Dangerous Fireworks
6-2-3: Safe and Sane Fireworks
6-2-4: Fireworks Permit for Public Display Required
6-2-5: Permit for Sale of Safe and Sane Fireworks
6-2-6: Application
6-2-7: Issuance
6-2-8: Fireworks Stands
6-2-9: Storage and Transportation
6-2-10: Fireworks Permit for Public Display; Application
6-2-11: Data Furnished
6-2-12: Permit for Sale of Fireworks at Wholesale
6-2-13: Application for Wholesale Permit
6-2-14: Information Furnished
6-2-15: Sale of "Dangerous Fireworks" Prohibited
6-2-16: Written Records
6-2-17: Seizure of Fireworks
6-2-18: Discharge of Fireworks in Public Area
6-2-19: Revocation of Permit

6-2-1: ADOPTION NFPA 1123: The 2006 edition of the National Fire Protection Association Code for Fireworks Display ("NFPA 1123"), one (1) copy of which shall be filed for use and examination by the public in the office of the City Clerk, is hereby adopted and incorporated into this City Code as if set out at length herein. (Ord. 2756, 6-12-08)

6-2-2: AMENDMENTS: The 2006 edition of NFPA 1123 Code for Fireworks Display, as so adopted, is amended as follows:

(A) DEFINITIONS:

(1) FIREWORKS —"Fireworks" means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. Fireworks include items classified as common or special fireworks by the United States bureau of explosives or contained in the regulations of the United States Department of Transportation and designated as UN 0335 1.3G or UN 0336 1.4G. The term "fireworks" shall not include any automotive safety flares, toy guns, toy cannons, caps or other items designed for use with toy guns or toy cannons, party poppers, pop-its or other devices which contain twenty-five hundredths (.25) of a grain or less of explosive substance.
DANGEROUS FIREWORKS — "Dangerous fireworks" includes any of the following:

(a) Firecrackers, cannon crackers, giant crackers, salutes, silver tube salutes, cherry bombs, mines, ground bombardment, grasshoppers and other explosive articles of similar nature;

(b) Blank cartridges;

(c) Skyrockets and rockets, including all similar devices employing any combustible or explosive material and which rise in the air during discharge;

(d) Roman candles, including all devices which discharge balls of fire into the air;

(e) Chasers and whistles, including all devices which dart or travel about the surface of the ground during discharge;

(f) Snakes and hats containing bichloride of mercury;

(g) Sparklers more than ten inches (10") in length or one-quarter inch (¼") in diameter;

(h) All articles for pyrotechnic display such as aerial shells, salutes, flash shells, sky battles, parachute shells, mines, Dago bombs and similar devices;

(i) All torpedoes which explode by means of friction, or which contain arsenic and all other similar fireworks devices, including cracker balls;

(j) Fire balloons or balloons of any type which have burning material of any kind attached thereto;

(k) Toy cannons which use a combustible or explosive substance for the purpose of producing a visible or audible effect.

SAFE AND SANE FIREWORKS — "Safe and sane fireworks" includes any of the following:

(a) Cone fountains with pyrotechnic composition not exceeding fifty (50) grams each;

(b) Cylindrical fountains, whether base, spike or handle, with pyrotechnic composition not exceeding seventy-five (75) grams each and inside tube diameter not exceeding three-quarters inch (3/4");
(c) Sparklers and "dipped sticks" not more than ten inches (10") in length or one-quarter inch (¼") in diameter and Suzuki and morning glories with pyrotechnic composition not exceeding four (4) grams each;

(d) Snakes which do not contain bichloride of mercury and pyrotechnic composition not exceeding two (2) grams each;

(e) Wheels with pyrotechnic composition not exceeding sixty (60) grains for each driver unit of two hundred forty (240) grains for each complete wheel. The inside tube diameter of diver unit shall not exceed one-half inch (½");

(f) Whistles, without report and which do not dart or travel about the ground during discharge with pyrotechnic composition not exceeding six (6) grams and containing no picric or gallic acid.

(4) CONSUMER FIREWORKS — "Consumer Fireworks" means small fireworks devices containing restricted amounts of pyrotechnic composition, designed primarily to produce visible or audible effects by combustion that comply with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission (CPSC). "Safe and Sane fireworks" as defined by City ordinance are to be considered in this classification.

(5) DISPLAY FIREWORKS — "Display Fireworks" means large fireworks devices that are explosive materials intended for use in fireworks displays and designed to produce visible or audible effects by combustion, deflagration, or detonation.

(B) CONSUMER FIREWORKS — PERMIT AND SALE OF "SAFE AND SANE" FIREWORKS: It shall be unlawful for any person to sell, store or keep for sale, any "safe and sane fireworks" within the City, unless such person is the holder of a valid permit issued by the Fire Code Official and the site where such items are sold or stored is inspected and approved by the Fire Code Official.

(C) CONSUMER FIREWORKS — APPLICATION: Any person desiring to sell "safe and sane fireworks" within the City shall apply to the City Clerk for a permit. Each applicant shall pay to the Clerk a permit fee and inspection fee in an amount set from time to time by Resolution of the Council at the time of application. If the application is denied, the permit fee shall be refunded. The application for a permit to sell "safe and sane fireworks" shall include the following information:

(1) Name and address of applicant.

(2) Age of applicant (Must be at least 21 years of age)

(3) The names and addresses of the officers of the applicant, if a corporation.
(4) The location of the place of sale of "safe and sane fireworks."

(5) The name and address of any wholesaler, or distributor, from whom the applicant intends to obtain "safe and sane fireworks."

(6) The applicant's state sales tax permit number.

(7) A bond or valid certificate of public liability and property-casualty insurance issued by a company licensed to issue insurance policies within the State of Idaho, providing coverage of at least one hundred thousand dollars ($100,000) for personal injury and property damage shall be presented at the time of application.

(D) CONSUMER FIREWORKS — REVIEW OF APPLICATION: The Fire Code Official shall examine or cause to be examined the application for the permit and amendments thereto within a reasonable time after filing. If the application does not conform to the requirements of pertinent state and local laws and ordinances, the Fire Code Official shall reject such application in writing, stating the reasons therefor. If the Fire Code Official is satisfied that the proposed work or operation conforms to the requirements of this code and laws and ordinances applicable thereto, the fire code official shall issue a permit therefore as soon as practicable. Permits for a fireworks display before a proximate audience shall be granted only by the City Council after investigation and recommendation by the Fire Code Official.

(E) CONSUMER FIREWORKS — ISSUANCE OF PERMIT: No permit shall be granted for sale on premises or under any conditions which would violate any State law or City ordinance. Each permit shall be valid only for one location designated in the permit. No permit shall be transferable, assignable or renewable. The permit shall be valid only for the year of its issue and shall permit the sale or offering for sale of "safe and sane fireworks" only from twelve o'clock (12:00) midnight June 23, to twelve o'clock (12:00) midnight July 5.

(F) CONSUMER FIREWORKS — REVOCATION OF PERMIT: Any permit granted under this Chapter may be revoked by order of the Fire Code Official or any police officer or officer from the Fire Department whenever probable cause appears that the permittee has violated or is in violation of this Chapter.

(G) CONSUMER FIREWORKS — FIREWORKS STANDS: Temporary fireworks stands shall be located, constructed and operated in compliance with the following regulations:

(1) Fireworks displayed in temporary fireworks stands for retail sale shall not be made readily accessible to the public. The term "readily accessible" means that retailers shall be the only ones to handle the fireworks until the actual sale takes place.

(2) The stand shall comply with all applicable zoning and electrical codes.
(3) The stand shall not be located within twenty-five feet (25’) of any other building.

(4) The stand shall not be located within one hundred feet (100’) of any pump or any other device used to dispense gasoline, kerosene, diesel fuel, propane or other flammable liquid or flammable liquefied gas as defined in of the International Fire Code.

(5) The stand shall not be located within one hundred feet (100’) of any above ground tank, cylinder or other device used to store propane or other flammable liquefied gas as defined in the International Fire Code.

(6) The stand shall not be located within one hundred feet (100’) of any vent or fill pipe of any underground tank or other underground device used to store gasoline, kerosene, diesel fuel or other flammable liquid as defined in the International Fire Code.

(7) The stand shall have two (2) exits, each a minimum of thirty (30) inches wide, placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between exit doors or exit access doorways. One (1) additional door is required for each thirty-two (32) feet of rear wall in excess of thirty-two (32) feet. All doors shall open outward from the stand and shall be kept unlocked and unlatched during the hours of operation and free and clear of supplies and materials at all times.

(8) The stand shall have at least two (2) fire extinguishers with a 2A minimum rating, in good working order, with a current inspection tag in place, placed near the exits in a visible and readily accessible manner.

(9) At least one supervisor, eighteen (18) years of age or older, shall be present within the stand at all times the stand is open for business.

(10) No fireworks shall be discharged within one hundred feet (100’) of any fireworks stand.

(11) "No Smoking" signs shall be conspicuously and permanently displayed both inside and outside the stand. No smoking shall be permitted inside or within twenty-five feet (25’) of the stand.

(12) Generators and other internal combustion power sources shall be separated from temporary structures by a minimum of twenty feet (20’) and shall be isolated from contact with the public by fencing, enclosure or other approved means.

(13) Fireworks shall not be left in the stand when it is not open for business unless the stand is locked or secured. If fireworks are not stored in the
No "safe and sane fireworks" shall be sold, or offered for sale, except from twelve o’clock (12:00) midnight June 23, to twelve o’clock (12:00) midnight July 5.

(H) CONSUMER FIREWORKS — MEMBRANE TENTS: The temporary use of membrane structures for the retail sales of "safe and sane" fireworks shall be permitted when all the following requirements are met:

1. Membrane structure, tents or canopies shall have a permanently affixed label bearing the identification of size and fabric or material type.

2. The owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory, certifying that the tents, canopies and membrane structures and their appurtenances, sidewalks, drops and tarpaulins, floor coverings, bunting, combustible decorative materials and effects, shall be composed of flame-resistant material or shall be treated with a flame retardant in an approved manner and meet the requirements for flame resistance as determined in accordance with NFPA 701, and that such flame resistance is effective for the period specified by the permit.

3. There shall be a minimum clearance of at least 3 feet between the fabric envelope and all contents located inside the tent or membrane structure.

4. Generators and other internal combustion power sources shall be separated from tents, canopies of membrane structures by a minimum of twenty (20’) feet and shall be isolated from contact with the public by fencing, enclosure or other approved means.

5. Open flame or other devices emitting flame, fire or heat or any flammable or combustible liquids, gas, charcoal or other cooking device or any other unapproved devices shall not be permitted inside or located within twenty (20’) feet of the tent, canopy or membrane structures while open to the public unless approved by the fire code official.

6. No storage of fireworks in a membrane structure when not open for business.

7. Temporary membrane structures shall meet all other requirements in this code.

(I) CONSUMER FIREWORKS — STORAGE AND TRANSPORTATION: Consumer "Safe and sane fireworks" shall be stored and transported within the City in compliance with the following standards:
(1) Storage: "Safe and sane fireworks" shall not be stored in any building within the City. A short-term storage facility may be used for the storage of non-aerial common fireworks for a period of thirty (30) days prior to, and fifteen (15) days after, any authorized retail sale date. The authority having jurisdiction shall be notified of the address or location of all short-term storage facilities when fireworks will not be stored in a temporary fireworks stand. Short-term storage is allowed in any of the following, proved it is locked or otherwise secured: a temporary fireworks stand, truck, trailer, or other vehicle. A truck, trailer or other vehicle used for short-term storage must remain at least twenty-five (25) feet from the stand during any time the stand is open for business, but may abut the stand when it is closed. A truck, trailer or vehicle used for short-term storage must be at least twenty-five (25) feet from any other inhabited building.

(2) Transportation: Quantities of "safe and sane fireworks" greater than twenty-five (25) pounds shall not be transported in any vehicle within the City unless "Caution Fireworks" signs are displayed on the vehicle. The signs shall be placed so that they are plainly visible from the rear and both sides of the vehicle. The shape, size, color and language of the signs shall be the same as for signs to be posted on buildings in which quantities of "safe and sane fireworks" greater than twenty-five (25) pounds are stored.

(J) CONSUMER FIREWORKS — WRITTEN RECORDS: Any person, association or corporation who holds a permit issued pursuant to this Chapter and who purchases fireworks for the purpose of sale at retail, shall at the time such purchase is made, keep and maintain a written record containing the following information:

(1) The name and address of the wholesaler or distributor from whom the fireworks were purchased, and, if the wholesaler or distributor is a corporation or association, the name of every person who acted in behalf of such corporation or association;

(2) The date and location of the purchase;

(3) An itemized list describing the kind and nature of all fireworks purchased and the quantity thereof.

(4) Such written record, or a true and correct copy thereof, shall be kept at the location where said fireworks are offered for sale at retail. It shall be unlawful for any person to fail or refuse to allow any police officer or officer from the Fire Department to inspect said record at any time during which the premises of the permittee are open for business.

(K) CONSUMER FIREWORKS — DISCHARGE OF FIREWORKS IN PUBLIC AREA: It shall be unlawful for any person to ignite or discharge any fireworks during the time periods set forth below and within fifty feet (50') of the curb line along any parade route or within any area of public gathering designated by the Chief of Police and/or Fire Code Official or to cause any ignited
fireworks to be thrown or propelled into such area. Such time period shall commence one hour prior to
the commencement of such parade and shall conclude one hour after the conclusion of the designated
parade times, and with regard to other areas of public gathering designated by the Chief of Police
and/or Fire Code Official, said time frame shall likewise be designated by the Chief of Police and/or
Fire Code Official. In areas of public gathering designated by the Chief of Police and/or Fire Code
Official, a public notice of such designation shall be posted in a conspicuous place at least once in
every City block contained within said public area, which notice shall specifically describe the area
and times within which this section shall apply.

(L) CONSUMER FIREWORKS — SEIZURE OF FIREWORKS: Whenever there
is probable cause to believe that any person is selling fireworks without a permit required by this
Chapter, or that any person has sold or conveyed any fireworks contrary to the provisions of this
Chapter, then the Chief of Police or Fire Code Official may order any police officer or officer of the
Fire Department to seize as evidence all fireworks offered for sale at the premises where such
violation is alleged to have taken place. The Police Department or Fire Department shall hold the
fireworks so seized pending trial or conviction of the person selling or offering the same for sale. In
the event such person is convicted of selling fireworks contrary to this Chapter, then all rights to the
fireworks shall be forfeited and the Chief of Police shall forthwith destroy the same.

(M) CONSUMER FIREWORKS — PERMIT FOR SALE OF FIREWORKS AT
WHOLESALE: It shall be unlawful for any person, association, corporation or any responsible person
associated with an association or a corporation, to sell, convey or offer for sale at wholesale, or cause
any other person to sell, convey or offer for sale at wholesale, any fireworks within the City, unless
such person is the holder of a valid permit for wholesale sale of fireworks. For the purposes of this
section, the term "responsible person" shall mean any person who owns at least ten percent (10%) of
the capital assets or interest in profits and losses of an unincorporated association, or any person who
holds or owns at least ten percent (10%) of the issued shares of the corporation.

(N) CONSUMER FIREWORKS - APPLICATION FOR WHOLESALE PERMIT:
Any person, association or corporation desiring to sell fireworks at wholesale within the City, shall
make application to the City Clerk for a permit for sale of fireworks at wholesale. Each applicant shall
pay, to the City Clerk, a fee in an amount set from time to time by Resolution of Council at the time of
application. Permits shall be granted only by the City Council after investigation and recommendation
by the Fire Code Official. No permit shall be granted for sale on premises or under any conditions
which would violate any State law or any ordinance of the City. If the application be denied, the
permit fee shall be refunded forthwith. Each permit shall be valid only for one location designated in
the permit. A permit shall not be transferable, assignable or renewable and shall be valid only for the
year of its issue.

(O) CONSUMER FIREWORKS — INFORMATION FURNISHED FOR PERMIT:
Each applicant for a permit for sale of fireworks at wholesale shall provide the following information
on his, her or its application:

1. The name and address of applicant or principal place of business.

2. The age of the applicant if not a business entity.
(3) The names and addresses of the officers of the applicant, if a corporation;

(4) The names and addresses of any person owning at least ten percent (10%) of the capital assets or profits and losses, if an association.

(5) The names and addresses of any person owning or holding ten percent (10%) or more of the issued shares of the corporation, if a corporation;

(6) The applicant’s state sales tax permit.

(P) DISPLAY FIREWORKS — FIREWORKS PERMIT FOR PUBLIC DISPLAY REQUIRED: It shall be unlawful for any person to possess, keep store, use or discharge within the City any dangerous fireworks unless such person be the holder of a valid “Fireworks Permit for Public Display” reviewed by the Fire Code Official and approved by the Mayor and/or City Council, Police Chief, Fire Chief and Director of Parks & Recreation.

(Q) DISPLAY FIREWORKS — SALE OF "DANGEROUS FIREWORKS" PROHIBITED: It shall be unlawful for any person to sell, convey or offer for sale any dangerous fireworks to any person who is not a holder of a valid fireworks permit for public display, or who is not employed by a corporation or association who is a holder of such permit.

(R) DISPLAY FIREWORKS — PERMIT APPLICATION: Any person desiring to conduct a public display of fireworks within the City shall apply to the City Clerk for a permit. Prior to issuing permits for a fireworks display, plans for the display, inspection of the display site and demonstrations of the display operations shall be approved by the Fire Code Official. A plan establishing procedures to follow and actions to be taken in the event that a shell fails to ignite in, or discharge from, a mortar or fails to function over the fall-out area or other malfunctions shall be provided to the Fire Code Official.

(S) DISPLAY FIREWORKS — PERMIT INFORMATION: An applicant for a “Fireworks Permit for Public Display” shall furnish the following information to the Clerk:

(1) The name, address, email address, and phone number of the individual, group, or organization sponsoring the outdoor fireworks display.

(2) Evidence that any individual applicant is not less than 21 years of age.

(3) Names and addresses of officers, if an association or corporation.

(4) The date and time of day at which the outdoor fireworks display is to be held, with a proposed rain/wind date and time in the event the display is postponed.

(5) The name, address, email address, and phone number of the supplier of the fireworks, if different from that of the operator.

(6) The exact location planned for the outdoor fireworks display.
(7) Evidence of financial responsibility by the sponsor of the event or festival and by the operator of the fireworks display.

(8) A copy of a valid certificate of public liability insurance issued by a company licensed to issue insurance policies within the State of Idaho, providing a combined single limit of not less than one million dollars ($1,000,000) for personal injury and one-hundred thousand dollars ($100,000) for property damage from a public display of special fireworks. (Ord. 2491, 6-12-03)

(9) Evidence that the Operator or "Shooter" is trained in pyrotechnic displays and the number of assistants who are to be present.

(10) The approximate number and kinds of fireworks to be discharged.

(11) The manner and place of storage of such fireworks prior to delivery to the outdoor fireworks display site.

(12) A diagram of the grounds on which the outdoor fireworks display is to be held showing the point at which the fireworks are to be discharged; the location of all buildings, highways, and other lines of communication; the lines behind which the audience is to be restrained; and the location of other possible overhead obstructions.

(13) Upon receipt of such application 10 days in advance of the date set for this outdoor fireworks display, the Fire Code Official should make or initiate an investigation of the site of the proposed display for the purpose of determining compliance with these regulations in the case of the particular display.

(T) DISPLAY FIREWORKS — PERMIT APPROVAL: The Council shall have the power to grant or deny such application after investigation and recommendation by the Fire Code Official. No fee shall be charged for a "Fireworks Permit for Public Display." Such permit, if granted, shall authorize the permittee to purchase, transport, keep and use fireworks for the purposes of the public display, but shall not authorize the permittee to sell, distribute or give away any fireworks, except to the wholesaler or distributor from which they were obtained. The permit shall be valid only for the public display for which applied.

(U) DISPLAY FIREWORKS — APPROVED DISPLAYS: Approved displays shall include only the approved Division 1.3G, Division 1.4G, and Division 1.4S fireworks; shall be handled by an approved competent operator, and the fireworks shall be arranged, located, discharged and fired in a manner that will not pose a hazard to property or endanger any person.

(V) OUTDOOR DISPLAYS — Outdoor displays shall be in compliance with the adopted Fire Code, NFPA 1123, and NFPA 1126, State and local laws and this Chapter and are subject to the review and recommendation of the Fire Code Official.
(W) PROXIMATE AUDIENCE DISPLAYS — Proximate audience displays shall be in compliance with the adopted Fire Code, NFPA 1123, and NFPA 1126, State and local laws and this Chapter, and shall include plans for indicating the required clearances for spectators and combustibles, crowd control measures, smoke control measures, and requirements for standby personnel and equipment when provision of such personnel or equipment is required by the Fire Code Official. (Ord. 2756, 6-12-08; Ord. 2964, 8-14-14; Ord. 3003, 04-23-15)

6-2-3: SAFE AND SANE FIREWORKS: "Safe and sane fireworks" includes any of the following:

(A) Cone fountains with pyrotechnic composition not exceeding fifty (50) grams each;

(B) Cylindrical fountains, whether base, spike or handle, with pyrotechnic composition not exceeding seventy-five (75) grams each and inside tube diameter not exceeding three-quarters inch (3/4);

(C) Sparklers and "dipped sticks" not more than ten inches (10") in length or one-quarter inch (¼") in diameter and Suzuki and morning glories with pyrotechnic composition not exceeding four (4) grams each;

(D) Snakes which do not contain bichloride of mercury and pyrotechnic composition not exceeding two (2) grams each;

(E) Wheels with pyrotechnic composition not exceeding sixty (60) grains for each driver unit of two hundred forty (240) grains for each complete wheel. The inside tube diameter of diver unit shall not exceed one-half inch (½);

(F) Whistles, without report and which do not dart or travel about the ground during discharge with pyrotechnic composition not exceeding six (6) grams and containing no picric of gallic acid.

6-2-4: FIREWORKS PERMIT FOR PUBLIC DISPLAY REQUIRED: It shall be unlawful for any person to possess, keep store, use or discharge within the City any dangerous fireworks unless such person be the holder of a valid "Fireworks Permit for Public Display."

6-2-5: PERMIT AND SALE OF SAFE AND SANE FIREWORKS: It shall be unlawful for any person to sell, store or keep for sale, any "safe and sane fireworks" within the City, unless such person is the holder of a valid "Permit for Safe and Sane Fireworks." (Ord. 2193, 12-14-95; Ord. 2597, 4-14-05)

6-2-6: APPLICATION: Any person desiring to sell "safe and sane fireworks" within the City shall apply to the City Clerk for a permit. Each applicant shall pay to the Clerk a permit fee and inspection fee in an amount set from time to time by Resolution of the Council at the time of application. If the application is denied, the permit fee shall be refunded. The application for a permit to sell "safe and sane fireworks" shall include the following information:

(A) name and address of applicant;
(B) the names and addresses of the officers of the applicant, if a corporation;

(C) the location of the place of sale of "safe and sane fireworks";

(D) the name and address of any wholesaler, or distributor, from whom the applicant intends to obtain "safe and sane fireworks";

(E) the applicant's state sales tax permit number; and

(F) a copy of a valid certificate of public liability insurance issued by a company licensed to issue insurance policies within the State of Idaho, providing a combined single limit of not less than three hundred thousand dollars ($300,000) for personal injury and fifty thousand dollars ($50,000) for property damage. (Ord. 2491, 6-12-03, Ord. 2964, 8-14-14)

6-2-7: ISSUANCE: Permits shall be granted only by the Council after investigation and recommendation by the Chief of the Fire Department. No permit shall be granted for sale on premises or under any conditions which would violate any State law or City ordinance. Each permit shall be valid for only one location designated in the permit. No permit shall be transferable, assignable or renewable. The permit shall be valid only for the year of its issue and shall permit the sale or offering for sale of "Safe and sane fireworks" only from midnight June 23, to midnight July 5. (Ord. 2701, 6-07-07; Ord. 3003, 04-23-15)

6-2-8: FIREWORKS STANDS: Temporary fireworks stands shall be located, constructed and operated in compliance with the following regulations:

(A) Fireworks displayed in temporary fireworks stands for retail sale shall not be made readily accessible to the public. The term "readily accessible" means that retailers shall be the only ones to handle the fireworks until the actual sale takes place.

(B) The temporary use of membrane structures for the retail sales of "safe and sane" fireworks shall be permitted when all the following requirements are met:

(1) Membrane structure, tents or canopies shall have a permanently affixed label bearing the identification of size and fabric or material type.

(2) The owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory, certifying that the tents, canopies and membrane structures and their appurtenances, sidewalks, drops and tarpaulins, floor coverings, bunting, combustible decorative materials and effects, shall be composed of flame-resistant material or shall be treated with a flame retardant in an approved manner and meet the requirements for flame resistance as determined in accordance with NFPA 701, and that such flame resistance is effective for the period specified by the permit.

(3) There shall be a minimum clearance of at least 3 feet (914 mm) between the fabric envelope and all contents located inside the tent or membrane structure.
Open flame or other devices emitting flame, fire or heat or any flammable or combustible liquids, gas, charcoal or other cooking device or any other unapproved devices shall not be permitted inside or located within 20 feet (6096 mm) of the tent, canopy or membrane structures while open to the public unless approved by the fire code official.

No storage of fireworks in a membrane structure when not open for business.

Temporary membrane structures meet all other requirements in this ordinance.

The stand shall comply with all applicable zoning and electrical codes.

The stand shall not be located within twenty-five feet (25') of any other building.

The stand shall not be located within one hundred feet (100') of any pump or any other device used to dispense gasoline, kerosene, diesel fuel, propane or other flammable liquid or flammable liquefied gas as defined in of the International Fire Code.

The stand shall not be located within one hundred feet (100') of any above ground tank, cylinder or other device used to store propane or other flammable liquefied gas as defined in the International Fire Code.

The stand shall not be located within one hundred feet (100') of any vent or fill pipe of any underground tank or other underground device used to store gasoline, kerosene, diesel fuel or other flammable liquid as defined in the International Fire Code.

The stand shall have two (2) exits, each a minimum of thirty inches (30") wide, placed a distance apart equal to not less than one-half of the length of the maximum overall diagonal dimension of the building or area to be served measured in a straight line between exit doors or exit access doorways. One (1) additional door is required for each thirty-two feet (32') of rear wall in excess of thirty-two feet (32'). All doors shall open outward from the stand and shall be kept unlocked and unlatched during the hours of operation and free and clear of supplies and materials at all times.

The stand shall have at least two (2) fire extinguishers with a 2A minimum rating, in good working order, with a current inspection tag in place, placed near the exits in a visible and readily accessible manner.

At least one supervisor, eighteen (18) years of age or older, shall be present within the stand at all times the stand is open for business.

No fireworks shall be discharged within one hundred feet (100') of any fireworks stand.
"No Smoking" signs shall be conspicuously and permanently displayed both inside and outside the stand. No smoking shall be permitted inside or within twenty-five feet (25') of the stand.

Generators and other internal combustion power sources shall be separated from tents, canopies of membrane structures by a minimum of 20 feet (6096 mm) and shall be isolated from contact with the public by fencing, enclosure or other approved means.

Fireworks shall not be left in the stand when it is not open for business unless the stand is locked or secured. If fireworks are not stored in the stand, they shall be stored in compliance with Section 6-2-9(A) of this ordinance.

No "safe and sane fireworks" shall be sold, or offered for sale, except from midnight June 23, to midnight July 5. (Ord. 2491, 6-12-03; Ord. 2597, 4-14-05; Ord. 2701, 6-07-07)

Storage and transportation: "Safe and sane fireworks" shall be stored and transported within the City in compliance with the following standards:

(A) Storage: "Safe and sane fireworks" shall not be stored in any building within the City. A short-term storage facility may be used for the storage of non-aerial common fireworks for a period of thirty (30) days prior to, and fifteen (15) days after, any authorized retail sale date. The authority having jurisdiction shall be notified of the address or location of all short-term storage facilities when fireworks will not be stored in a temporary fireworks stand. Short-term storage is allowed in any of the following, proved it is locked or otherwise secured: a temporary fireworks stand, truck, trailer, or other vehicle. A truck, trailer or other vehicle used for short-term storage must remain at least twenty-five feet (25') from the stand during any time the stand is open for business, but may about the stand when it is closed. A truck, trailer or vehicle used for short-term storage must be at least twenty-five feet (25') from any other inhabited building.

(B) Transportation: Quantities of "Safe and sane fireworks" greater than twenty-five (25) pounds shall not be transported in any vehicle within the City unless "Caution Fireworks" signs are displayed on the vehicle. The signs shall be placed so that they are plainly visible from the rear and both sides of the vehicle. The shape, size, color and language of the signs shall be the same as for signs to be posted on buildings in which quantities of "Safe and sane fireworks" greater than twenty-five (25) pounds are stored. (Ord. 2193, 12-14-95; Ord. 2597, 4-14-05)

Fireworks permit for public display; application: Any person desiring to conduct a public display of fireworks within the City may apply for a permit therefor to the Clerk. The Council shall have the power to grant or deny such application after investigation and recommendation by the Chief of Police and the Fire Chief. Such permit, if granted, shall authorize the permittee to purchase, transport, keep and use fireworks of all kinds for the purposes of the public display, but shall not authorize the permittee to sell, distribute or give away any fireworks, except to the wholesaler or distributor from which they were obtained. The permit shall be valid only for the public display for which applied. No fee shall be charged for a "Fireworks Permit for Public Display."

DATA FURNISHED: An applicant for a "Fireworks Permit for Public Display" shall furnish the following information to the Clerk:
(A) Name and address of the applicant.

(B) Names and addresses of officers, if an association or corporation.

(C) The place and time of the public display.

(D) The name and address of the wholesaler or distributor from whom the fireworks will be obtained.

(E) A copy of a valid certificate of public liability insurance issued by a company licensed to issue insurance policies within the State of Idaho, providing a combined single limit of not less than one million dollars ($1,000,000) for personal injury and one-hundred thousand dollars ($100,000) for property damage from a public display of special fireworks. (Ord. 2491, 6-12-03)

6-2-12: PERMIT FOR SALE OF FIREWORKS AT WHOLESALE: It shall be unlawful for any person, association, corporation or any responsible person associated with an association or a corporation, to sell, convey or offer for sale at wholesale, or cause any other person to sell, convey or offer for sale at wholesale, any fireworks within the City, unless such person is the holder of a valid permit for wholesale sale of fireworks. For the purposes of this section, the term "responsible person" shall mean any person who owns at least ten percent (10%) of the capital assets or interest in profits and losses of an unincorporated association, or any person who holds or owns at least ten percent (10%) of the issued shares of the corporation.

6-2-13: APPLICATION FOR WHOLESALE PERMIT: Any person, association or corporation desiring to sell fireworks at wholesale within the City, shall make application to the City Clerk for a permit for sale of fireworks at wholesale. Each applicant shall pay to the City Clerk a fee in an amount set from time to time by Resolution of the Council at the time of application. Permits shall be granted only by the Council after investigation and recommendation by the Fire Chief. No permit shall be granted for sale on premises or under any conditions which would violate any State law or any ordinance of the City. If the application be denied, the permit fee shall be refunded forthwith. Each permit shall be valid only for one location designated in the permit. A permit shall not be transferable, assignable or renewable and shall be valid only for the year of its issue. (Ord. 2491, 6-12-03; Ord. 2964, 8-14-14)

6-2-14: INFORMATION FURNISHED: Each applicant for a permit for sale of fireworks at wholesale shall provide the following information on his, her or its application:

(A) The name and address of applicant or principal place of business.

(B) The names and addresses of the officers of the applicant, if a corporation;

(C) The names and addresses of any person owning at least ten percent (10%) of the capital assets or profits and losses, if an association.

(D) The names and addresses of any person owning or holding ten percent (10%) or more of the issued shares of the corporation, if a corporation;

(E) The applicant's state sales tax permit.
6-2-15: SALE OF "DANGEROUS FIREWORKS" PROHIBITED: It shall be unlawful for any person to sell, convey or offer for sale any dangerous fireworks to any person who is not a holder of a valid fireworks permit for public display, or who is not employed by a corporation or association who is a holder of such permit.

6-2-16: WRITTEN RECORDS:

(A) Any person, association or corporation who holds a permit issued pursuant to this chapter and who purchases fireworks for the purpose of sale at retail, shall at the time such purchase is made, keep and maintain a written record containing the following information.

(1) The name and address of the wholesaler or distributor from whom the fireworks were purchased, and, if the wholesaler or distributor is a corporation or association, the name of every person who acted in behalf of such corporation or association;
(2) The date and location of the purchase;
(3) An itemized list describing the kind and nature of all fireworks purchased and the quantity thereof.

(B) Such written record, or a true and correct copy thereof, shall be kept at the location where said fireworks are offered for sale at retail. It shall be unlawful for any person to fail or refuse to allow any police officer or officer from the Fire Department to inspect said record at any time during which the premises of the permittee are open for business. (Ord. 3003, 04-23-15)

6-2-17: SEIZURE OF FIREWORKS: Whenever there is probable cause to believe that any person is selling fireworks without a permit required by this Chapter, or that any person has sold or conveyed any fireworks contrary to the provisions of this Chapter, then the Chief of Police or Fire chief may order any police officer or officer of the Fire Department to seize as evidence all fireworks offered for sale at the premises where such violation is alleged to have taken place. The Police Department or Fire Department shall hold the fireworks so seized pending trial or conviction of the person selling or offering the same for sale. In the event such person is convicted of selling fireworks contrary to this Chapter, then all rights to the fireworks shall be forfeited and the Chief of Police shall forthwith destroy the same. (Ord. 3003, 04-23-15)

6-2-18: DISCHARGE OF FIREWORKS IN PUBLIC AREA: It shall be unlawful for any person to ignite or discharge any fireworks during the time periods set forth below and within fifty feet (50') of the curb line along any parade route or within any area of public gathering designated by the Chief of Police, or to cause any ignited fireworks to be thrown or propelled into such area. Such time period shall commence one hour prior to the commencement of such parade and shall conclude one hour after the conclusion of the designated parade times, and with regard to other areas of public gathering designated by the Chief of Police, said time frame shall likewise be designated by the Chief of Police. In areas of public gathering designated by the Chief of Police, a public notice of such designation shall be posted in a conspicuous place at least once in every City block contained within said public area, which notice shall specifically describe the area and times within which this section shall apply.
6-2-19: REVOCATION OF PERMIT: Any permit granted under this Chapter may be revoked by order of the Fire Chief or the Chief of Police whenever probable cause appears that the permittee has violated or is in violation of this Chapter.
CHAPTER 3
DAY CARE

SECTION:

6-3-1: Purpose
6-3-2: Definitions
6-3-3: Child Care Facility License
6-3-4: Certification of Individual Child Care Workers or On-Site Non-Providers
6-3-5: License and Certification Exclusions
6-3-6: Revocation of Child Care Facility License, Child Care Worker Certification or Non-Site Non-Providers Certification
6-3-7: Outdoor Space Per Child
6-3-8: Licenses/Certification, Denial, Suspension or Revocation
6-3-9: Staffing Requirements
6-3-10: Record Maintenance
6-3-11: Right of Entry for Governing Officials
6-3-12: Reporting of Abuse, Abandonment or Neglect
6-3-13: Liability
6-3-14: Penalty

6-3-1: PURPOSE: The purpose of this Chapter is to provide standards for the operation, inspection and licensing of Child Care Facilities within the City. Idaho Code Sections 39-1101 and 39-1108, and the Idaho Administrative Code, Section 16.06.02.100.01 authorize a local government to adopt ordinances to protect children in child care facilities to the extent such ordinances are at least as stringent as the minimum standards set forth in such State codes and regulations. The purpose of this Chapter is to increase the standards for the City of Idaho Falls above those minimally required under State law in order to promote a healthy and safe environment in which children receive child care. Despite the foregoing, the City recognizes that the primary responsibility for evaluation and selection of child care services should remain with the parents. (Ord. 2759, 06-24-08)

6-3-2: DEFINITIONS: For the purposes of this Chapter, certain words and phrases are defined as follows:

(A) Applicant: A person making an application for a Child Care Facility license or Child Care Worker Certification or the renewal of such certification, under the provisions of this Chapter.

(B) Building Official: The Building Official of the City as designated under the International Building Code adopted by the City.

(C) Certified Child Care Worker: A person having obtained a Child Care Worker Certificate from the City for working in a Child Care Facility.

(D) Chief of Police: The Chief of Police of the City, or his or her nominee.
(E) **Child:** An individual less than twelve (12) years of age who receives or is receiving Child Care at a Child Care Facility. Children seventeen (17) years or younger shall be considered a "Child" if they are mentally or developmentally disabled or delayed.

(F) **Child Care Center:** A Child Care Facility that provides child care for thirteen (13) or more children at any given time upon the Premises of a Child Care Facility.

(G) **Child Care Facility:** The generic term for any child care facility, whether it is a Child Care Center (for thirteen or more children), Group Child Care Facility (for six to twelve children), or Family Child Care Facility (for one to five children).

(H) **Child Care:** Care or supervision of a child for monetary compensation where such child is not related by blood or marriage within the second degree of consanguinity to the person or persons providing the care, in a place other than the child's own home.

(I) **Child Care Facility License:** Any child care facility license required by this Chapter.

(J) **Child Care Worker:** A person who provides child care at a Child Care Facility.

(K) **Child Care Training:** Preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a Child Care Worker or Volunteer and which is part of an educational/technical curriculum.

(L) **City:** The City of Idaho Falls, Idaho.

(M) **City Council:** The duly elected City Council of the City.

(N) **Contact:** Verbal communication with and in the presence of a child or the act of being in immediate physical proximity to a child.

(O) **Criminal Background Investigation:** A background investigation performed pursuant to Idaho Administrative Code, Section 16.05.06.

(P) **Department:** The Idaho Department of Health and Welfare.

(Q) **Director of the Community Development Services Department:** The Director of the Community Development Services Department of the City, or his or her nominee.

(R) **EIPHD:** Eastern Idaho Public Health District. EIPHD will be responsible for health and safety inspections of Child Care Facilities.

(S) **Facility:** The generic term referring to a Child Care Center Facility, Group Child Care Facility or Family Child Care Facility.

(T) **Family Child Care Facility:** A home, place, or facility that provides child care for no more than five (5) children at any given time upon the Premises of a Child Care Facility.
(U) Fire Marshal: The Fire Marshal of the City of Idaho Falls, or his or her nominee.

(V) Group Child Care Facility: A home, place or facility that provides child care for at least six (6), but no more than twelve (12) children at any given time upon the Premises of a Child Care Facility.

(W) Immediate Family Member: A person related by blood or marriage within the second degree of consanguinity to an owner or operator of a Child Care Facility.

(X) Licensee: A person having a City Child Care license in full force and effect, issued hereunder for ownership or operation of a child care facility.

(Y) Mayor: The duly elected Mayor of the City.

(Z) Member of the Household: Any person who resides in, or on the property of, a facility providing Child Care.

(AA) Multi-Use Facility: A Child Care Facility which is owned by a person who conducts business or engages in commercial functions for pecuniary gain in addition to child care upon the Premises of a Child Care Facility.

(BB) Occasional Care: Care provided for compensation on an infrequent or intermittent basis by neighbors or family members that does not exceed forty (40) days in a calendar year.

(CC) On-Site Non-Provider: A person who is not a Child Care Worker or a Child Care Operator and who is either:

(1) A Resident of a Child Care Facility including immediate family members of the operator/director, and who has or may have unsupervised contact with children, or

(2) Janitorial or lunch room staff, a bookkeeper, office manager, secretary, receptionist or other person employed at a Child Care Facility and who may have regular unsupervised contact with children, exclusive of child care operators or child care workers.

(3) Any friend, significant other or neighbor who regularly visits the Child Care Facility.

(DD) Operator: A person who is physically present at a Child Care Facility and whose primary responsibility is the supervision and operation of the Child Care Facility during any time when Child Care is being provided upon the premises.

(EE) Owner: A person who owns any interest in, possesses or operates a Child Care Facility. Such interest may, without limitation, include an interest as a sole proprietorship, a
partnership interest, shareholder of a corporation, a beneficiary or trustee of a trust or a member of a limited liability company.

(FF) Person: Any individual, partnership, association, corporation, limited liability company or private organization of any kind.

(GG) Premises: For commercial buildings, the part of the building owned or leased for daycare facility, including parking areas and outside play areas. For home daycares, "Premises" means, the entire home, including outside play areas.

(HH) Regular: A frequency of at least once each calendar week.

(II) Relative: Individuals related to a child by blood, marriage or adoption within the second degree of consanguinity.

(JJ) Resident: Any individual twelve (12) years of age or older who resides in a Child Care Facility.

(KK) Visitor: An individual who is a guest or invitee at a Child Care Facility on a random or infrequent basis.

(LL) Volunteer: A person who intermittently provides care for children or other personal services to a Child Care Facility without pay or remuneration of any kind. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11; Ord. 3253, 5-13-19)

6-3-3: CHILD CARE FACILITY LICENSE: No person or entity shall own, operate or permit to be operated within the City any Child Care Facility without first having obtained an appropriate license under this Chapter.

(A) Type 1: Child Care Center. Any person or operator applying for a Type 1 license shall deliver the following documents to the City Clerk at the time the application is made.

(1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.

(2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.

(3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.

(4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:
(a) All owners who will have regular contact with children;

(b) All residents twelve years of age and older of the facility; and

(c) Any spouse or significant other of an Owner.

(d) All residents 12-17 years of age must have a Juvenile Justice Search.

(5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section 39-1110.

(6) A certificate issued by the Fire Marshal certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55. An applicant must have the following fire safety items:

(a) Working smoke detectors are required at all designated day care areas within the home;

(b) Fire extinguisher is required that meets the current Code requirements for accessibility, current service tag and mounted within a seventy-five foot (75') travel distance to day care areas; and

(c) An operating telephone or cell phone;

(d) That the distance from the Child Care area shall not exceed seventy-five feet to an exit door.

(7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility has been inspected and that it meets the egress provisions of the International Building Code and other applicable health and safety codes of the City. Each In-Home Child Care Facility under this Section must have the following exiting components:

(a) One swinging type door with a clear width of not less than thirty-two inches (32") which provides an unobstructed path outside the building to a public way or safe area away from the building is required from a single level building;

(b) If the day care is located in the basement, two exits are required. One exit may pass through the dwelling and the other may be an emergency escape window or exterior door from the day care area. Day care areas above the main floor are prohibited; and
(c) Required exit doors shall not be locked when children are in the Day Care area and shall be designed and constructed so that they can open from the inside without the use of a key or any special knowledge.

(8) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.

(9) Proof of liability insurance for child care.

(B) Type 2: Group Child Care. Any person or operator applying for a Type 2 license shall possess the following qualifications before a license may be issued for that facility.

(1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.

(2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.

(3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.

(4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:

(a) All owners who will have regular contact with children;

(b) All residents twelve years of age and older of the facility; and

(c) Any spouse or significant other of an Owner.

(d) All residents 12-17 years of age must have a Juvenile Justice Search.

(5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section 39-1110.

(6) A certificate issued by the Fire Marshal certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55. An applicant must have the following fire safety items:
(a) Working smoke detectors are required at all designated day care areas within the home;

(b) Fire extinguisher is required that meets the current Code requirements for accessibility, current service tag and mounted within a seventy-five foot (75’) travel distance to day care areas;

(c) An operating telephone or cell phone; and

(d) That the distance from the child care area shall not exceed seventy-five (75’) feet to an exit door.

(7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility has been inspected and that it meets the egress provisions of the International Building Code and other applicable health and safety codes of the City. Each In-home Child Care Facility under this Section must have the following exiting components:

(a) One swinging type door with a clear width of not less than thirty-two inches (32”) which provides an unobstructed path outside the building to a public way or safe area away from the building is required from a single level building;

(b) If the day care is located in the basement, two exits are required. One exit may pass through the dwelling and the other may be an emergency escape window or exterior door from the day care area. Day care areas above the main floor are prohibited; and

(c) Required exit doors shall not be locked when children are in the Day Care area and shall be designed and constructed so that they can open from the inside without the use of a key or any special knowledge.

(8) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.

(9) Proof of liability insurance for child care.

(C) Type 3: Family Child Care. Any person or operator applying for a Type 3 license shall possess the following qualifications before a license will be issued for that facility.

(1) A list of all owners of the Child Care Facility and their current mailing and street addresses for their place of residence.
(2) A list of all Child Care Workers employed by the applicant and who are anticipated to provide child care at the facility, their mailing addresses and a copy of a current Child Care Worker's certification issued by the City for each worker included on such list.

(3) A list of all On-Site Non-Providers who will have any contact with the children at the facility.

(4) A certificate or letter signed by the Chief of Police or his designee certifying that a criminal background investigation has been completed, or is being completed, within two (2) years previous to such application for the following persons:

   (a) All owners who will have regular contact with children;

   (b) All residents twelve years of age or older of the facility; and

   (c) Any spouse or significant other of an Owner.

   (d) All residents 12-17 years of age must have a Juvenile Justice Search.

(5) A certificate issued by the EIPHD issued within ninety (90) days previous and certifying that the Facility meets the requirements of Idaho Code Section 39-1110.

(6) A certificate issued by the Fire Marshal certifying that the Child Care Facility has been inspected and meets the requirements of the International Fire Code, as adopted by the City, as well as Idaho Code Section 39-1109, and Idaho Administrative Code Section 18.01.55.

(7) A certificate issued by the Director of Community Development Services Department certifying that the Child Care Facility is a permitted use within the zone in which the facility is located.

(8) Proof of liability insurance for child care.

(D) APPLICATIONS FOR LICENSE: The applicant shall obtain an application for a license from the City Clerk. Once an application for a license has been submitted, the City Clerk shall review the application and determine whether or not the application is complete. If the City Clerk deems that the application is complete, then the applicant and City will arrange for all necessary inspections to obtain the certificates required by such Section in subsection (A), (B) or (C) above. Once all certifications are obtained and all requirements of either subsection (A), (B) or (C) above are met, the City Clerk shall issue a license. If the application is incomplete in any respect, the City Clerk shall promptly notify the applicant that the application is incomplete and shall specify the items which the City Clerk has determined are not complete or which do not otherwise comply with the provisions of subsection (A) hereof. Applications shall be made to the City Clerk in the form and manner prescribed by the City Clerk.
(E) TERM OF LICENSE: A license is valid for a two (2) year period years and shall expire on the date endorsed on the license.

(F) LICENSE POSTED: All facility licenses shall be posted in a conspicuous place at the Child Care facility whenever the facility is providing Child Care.

(G) FORM OF LICENSE: All licenses issued under this Chapter shall contain the following information.

1. The name of the Applicant.
2. The street address of the licensed Child Care Facility.
3. The date of expiration.
4. The maximum number of children the facility is authorized to have present in the facility at one time. Type 1 permits shall state "13+" as the maximum number. Type 2 permits shall state up to 12”. Type 3 permits shall state up to 5.”
5. Whether or not the applicant maintains liability insurance for child care.

(H) LICENSE/RENEWAL FEES: Each application/renewal for a Child Care Facility shall be accompanied by a license fee in an amount set from time to time by Resolution of the Council for the following:

Family Child Care;

Group Child Care; and

Child Care Center

(I) RENEWALS: At least thirty (30) days before a License is to expire, the Applicant must apply for a renewal license. The fees for a renewal license are the same as set forth in subsection (H) above. Depending on the type of License, all information required under Sections 6-3-3(A), 6-3-3(B), and 6-3-3(C) shall be provided with the application in order to qualify for the License. The following items do not need to be shown on renewal licenses:

1. A certificate showing that the Facility has been inspected by Community Development Services Department;
2. A certificate showing the Facility is permitted within the zone the Facility is located; and
(3) A site plan and floor plan, unless the site plan and floor plan has changed since the original license was issued.

(J) BACKGROUND CHECKS:

(1) In addition to the foregoing fees, the applicant shall also pay a fee in an amount set from time to time by Resolution of the Council for each criminal background investigation required under the provisions of Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1) hereof. Such fee shall be non-refundable, notwithstanding any failure or refusal of the City to issue the requested certificate. A full background check needs to be completed on the initial application and every other year thereafter. If a person required to receive a background check already has a valid background check done within the last two years, then that person will not be required to pay the background check fee. On the years which a full background check is not required, the persons required to have a background check will still be required to submit to a local and state-wide background check. If the person needing a background check is a minor, then the parent of such minor shall sign a release allowing a juvenile justice check to be performed.

(2) To determine the suitability of prospective applicants under Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1), the City shall require an applicant to provide information and fingerprints necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Section 67-3008, Idaho Code, and congressional enactment Public Law Section 92-544, the City shall submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police, Bureau of Criminal Identification, for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The City is authorized to receive criminal history information from the Idaho State Police and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of the applicants child care licensing. As required by state and federal law, further dissemination or other use of the criminal history information is prohibited.

(K) TIME BY WHICH LICENSE MUST BE OBTAINED: If a child care facility or provider is not already licensed through the State of Idaho, then they must apply for a City license by October 1, 2008. Any child care facility or provider who is already licensed through the State of Idaho must file their initial application for a City license thirty (30) days before their State license expires. By October 1, 2008, a child care facility or provider, who is licensed through the State, must provide a copy of their State license to the City Clerk. The State licensed facility or provider must provide verification that a criminal background check for all persons required under Sections 6-3-3(A)(4), 6-3-3(B)(4), 6-3-3(C)(4), 6-3-4(B)(2) and 6-3-4(C)(1) hereof has been completed, or is being completed, within the last two years. All child care facilities and providers, even if licensed by the state, shall be subject to Sections 6-3-6 through 6-3-12 of this ordinance. (Ord. 2759, 6-24-08; Ord. 2777, 8-28-08;
6-3-4: CERTIFICATION OF INDIVIDUAL CHILD CARE WORKERS OR ON-SITE NON-PROVIDERS:

(A) No owner or operator of a Child Care Facility shall permit or allow any Child Care Worker or On-Site Non-Provider to provide Child Care or to be in contact with a child at a Child Care Facility unless such Child Care Worker or On-Site Non-Provider possesses a certification issued under the provisions of this Chapter.

(B) Child Care Worker Certification (CCWC). No Child Care Worker or Operator shall provide child care or supervise the rendering of child care at any Child Care Facility unless he or she is at least eighteen (18) years of age and possesses a Child Care Worker's certificate issued under the provisions of this Chapter. Anyone sixteen (16) years or seventeen (17) years old may obtain a CCWC. However, these sixteen and seventeen year old workers must always be supervised by another CCWC who is over eighteen (18) years old. In order to obtain such certification, and for each renewal, applicants shall submit a completed application form to the City Clerk, accompanied by the following certificates and information:

1. A current certificate issued by the Red Cross, the Fire Marshal or any certified CPR and First Aid trainer, certifying that the applicant has completed an instructional class for child CPR and First Aid.

2. Verification from the Chief of Police or his designee certifying that a criminal background investigation has been completed for the applicant within two (2) years previous.

3. A birth certificate and picture identification evidencing the applicant's age.

4. Copies of the applicant’s records from the Child Abuse Registry or a letter from the Idaho Department of Health and Welfare that the Child Abuse Registry does not contain any records regarding the applicant.

5. For renewal certification only, a certificate issued by an educational/technical facility, certifying that the applicant has completed at least eight (8) hours of child care training which addresses the following areas: child development, health and safety, and child guidance.

(C) On-Site Non-Provider Documentation. No On-Site Non-Provider shall be in unsupervised contact with any child at a Child Care Facility. The following documentation and information for each On-Site Non-provider must be in the facility file:

1. Verification issued by the Chief of Police or his designee certifying that a criminal background investigation has been completed for the On-Site Non-Provider within two (2) years previous. If the On-Site Non-Provider is a minor, then the parents of the minor must sign a release so that the juvenile justice review may be completed.
(2) Copies of the applicant’s records from the Child Abuse Registry or a letter from the Idaho Department of Health and Welfare that the Child Abuse Registry does not contain any records regarding the applicant.

(3) The name and address of the Child Care Facility where the On-Site Non-Provider is employed or will be present at the Facility.

(D) Location of Certification and Documentation. The certification and documentation shall be kept upon the premises of any Child Care Facility where Child Care Worker or an On-Site Non-Provider works, resides, or regularly visits. The certificate or documentation shall be promptly made available upon request by any member of the public or by the Fire Marshal, Building Official or law enforcement officer.

(E) The term of the certificate is for two (2) years. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11; Ord. 3223, 6-19-17; Ord. 3213, 9-13-18)

6-3-5: LICENSE AND CERTIFICATION EXCLUSIONS: Nothing in this Chapter shall be construed to apply to:

(A) The occasional care of a child by his or her neighbors, relatives or friends, as long as such care is not provided in a Child Care Facility of any type.

(B) Public, Private or parochial educational facilities in which children of five years of age or older are taught a curriculum approved by the Idaho State Board of Education.

(C) Facilities providing temporary care for children whose parents remain on the premises at all times.

(D) Summer day camps, programs, religious schools and other summer activities operating less than a total of fourteen (14) days during a calendar year.

(E) Child Care of Relatives.

(F) State licensed foster care facilities and homes.

(G) Persons employed to care for children in the home where such children reside, provided the home is not otherwise classified as a Child Care Facility.

(H) Hospitals, clinics or rehabilitative facilities whose primary purpose is to provide medical care, rehabilitation services or therapy.

(I) Volunteers who provide educational or training services for children at a Child Care Facility for no more than two (2) hours in any day while under the supervision of a Certified Child Care Worker.

(J) Students who are participating in a publicly sponsored or funded educational program providing work experience in child care, child development, nutrition, or other child related...
subjects, provided such students are supervised by a Certified Child Care Worker at all times while the student is in contact with children on the Premises. (Ord. 2759, 06-24-08)

6-3-6: REVOCATION OF CHILD CARE FACILITY LICENSE, CHILD CARE WORKER CERTIFICATION OR NON-SITE NON-PROVIDERS CERTIFICATION:

(A) The following shall constitute grounds for revocation of a Child Care Facility license, Child Care Worker certification or On-Site Non-Providers documentation, or shall constitute grounds for a misdemeanor citation:

(1) Use of any tobacco product, alcoholic beverage, or illegal controlled substance by any Owner, Operator, Child Care Worker or On-Site Non-Provider on the premises of any Child Care Facility while Child Care is being provided.

(2) Knowingly keeping or storing firearms at a Child Care Facility while Child Care is being provided, unless such firearms are placed in a securely locked cabinet or storage area.

(3) Knowingly allow pets or animals to have contact with the children when the children are eating meals or snacks.

(4) Failure to keep and maintain immunization records for each child receiving Child Care at a Child Care Facility, as required by Section 39-1118, Idaho Code.

(5) The employment or use of any employee if such employee does not have a Certificate as required under this Chapter.

(6) The failure by the Owner of a Child Care Facility to notify the City Clerk of any change of ownership of the Child Care Facility within three (3) business days after such change of ownership becomes effective. For the purposes hereof a "change of ownership" shall be defined as a transfer of a controlling interest in any sole proprietorship, partnership, corporation, limited liability company, or other lawful form of business organization.

(7) Any knowing violation by an Owner, Operator, Child Care Worker or On-Site Non-Provider of any of the provisions of this Chapter.

(B) In the event there is good cause to believe that a Child Care Facility, Child Care Worker or On-Site Non-Provider has knowingly violated the provisions of subsection (A) hereof, the City Clerk shall notify the licensee or certificate holder of the nature of the alleged violation and shall notify the licensee of the time and place of a hearing before the City Council to consider whether or not the licensee's license or certification should be revoked. At such hearing, the licensee shall be afforded an opportunity to produce witnesses, submit documentary evidence and to otherwise submit testimony and evidence in opposition to the proposed revocation or suspension. At the conclusion of the hearing, the City Council may suspend or revoke the license or certification for such period of time as it deems appropriate. In the event any license or certification is revoked, the licensee or certificate...
holder shall not apply for or receive a new license or certification within one (1) year after the date of such revocation. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-7: OUTDOOR SPACE PER CHILD:

(A) As a condition for continued operation and licensure of any Child Care Facility, the outdoor space shall be as follows:

(1) For Child Care Centers and Group Child Care Facilities only, outdoor play areas should allow for at least 60 square feet of outdoor play area for each child that is playing outside at a time. A determination should be made by the provider of the total outdoor play area, to determine the maximum amount of children that can play outside at a time.

(2) Outdoor play areas shall adjoin, or be safely accessible to, the indoor area.

(3) Outdoor play areas on the premises shall be enclosed by a fence or wall at least four (4) feet in height. Fences or walls shall be free from sharp protruding edges. Gates shall be secured, so that children cannot leave without an adult. The fence shall be designed so that a young child cannot climb or squeeze under or through the fence. This provision shall only apply to Child Care Facilities who come into existence after this section becomes law.

(4) Pools, hot tubs, ponds and other bodies of water that are on the daycare facility premises must provide the following safeguards:

(a) The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements:

(i) The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, surround all sides of the pool and have a gate that is self-closing and that has a self-latching mechanism in proper working order out of the reach of young children;

(ii) If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened;

(iii) Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool.
(b) If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child.

(c) Wading pools must be empty when not in use.

(d) Children must be under direct supervision of an adult staff member while using the pool, hot tub, pond or other body of water.

(e) A minimum of four (4) foot high fence must be present that prevents access from the daycare facility premises if the daycare premises are adjacent to a body of water.

(5) Adequate shade areas shall be provided.

(6) The outdoor play area shall be free of the following hazardous conditions.

   (a) Concrete or asphalt shall not be used under outdoor playground equipment, except wheel toys.

   (b) The outdoor play area shall be well-drained.

   (c) Playground equipment which is not designed to be portable shall be securely anchored so that it cannot be tipped over by an adult.

   (d) The outdoor play area shall not have any sharp or broken objects, or areas where body limbs may become trapped, or strangulation may occur.

(7) Stairways or steps in the outside area which are used by the children shall have hand railings of a height no greater than 3 feet. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-8: LICENSES/CERTIFICATION, DENIAL, SUSPENSION OR REVOCATION: A license or certification applied for or issued under this Chapter may be denied, suspended or revoked if any criminal history investigation reveals that the applicant, licensee or On-Site Non-Provider has engaged in conduct which could pose a risk of harm to the health, safety, and welfare of the children who are or will be under the direct care of any potential applicant or current licensee. This provision shall include all convictions, judgments, withheld judgments, and guilty pleas of any type. Examples of conduct or events, but not limited to the following, which can pose a risk to children and are therefore grounds for denial, suspension or revocation include:

   (A) Having been found guilty of, pled guilty to, or admitted to conduct constituting a violation of a criminal law, regardless of the form of judgment, including, but not limited to, any felony, any misdemeanor involving moral turpitude or violence, any stalking or harassment of another
person whether directly or indirectly Title 37, Chapter 27, Idaho Code, or similar provisions in another jurisdiction, within the past ten (10) years;

(B) Having been found guilty of, pled guilty to, regardless of the form of judgment, or admitted to any offense involving neglect or any physical injury to, or other abuse of, a child, including any sex crime as defined in Idaho Code 18, Chapter 61; Idaho Code; rape as defined in Title 18, Chapter 61, Idaho Code; injuring a child as defined in Section 18-1501, Idaho Code; selling or bartering a child as defined in Section 18-1511, Idaho Code; sexually abusing or exploiting a child as defined in Sections 18-1506, 18-1506A, and 18-1508, Idaho Code; disseminating obscene material to minors as provided in Sections 18-1513, and 18-1515, Idaho Code; or similar provisions in another jurisdiction;

(C) Having been committed pursuant to Title 66, Chapter 3, Idaho Code or similar provision in another jurisdiction, or having been taken into alcohol or mental protective custody, as a result of alcohol, drug, or mental health issues, unless such individual has been released from the protective custody or community treatment center and the individual presents no threat or danger to himself or herself or to any child.

(D) Having been found guilty of or received a withheld judgment for a crime involving any controlled substance;

(E) Having his or her parental rights affected by a child protection action under Section 16-1601 et. seq., Idaho Code or child custody termination action under Section 16-2001 et. seq.; Idaho Code or similar provisions in another jurisdiction;

(F) Having been found guilty of or received a withheld judgment of any provision of Section 39-1113, Idaho Code;

(G) Violating any of the terms of this Chapter;

(H) Supplying false information, or refusing or failing to disclose any information required on the application form, or refusing to authorize the criminal background investigation required by this Chapter.

(I) Having a substantiated claim of abuse and neglect against any child from the Child Abuse Registry with the Department. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-9: STAFFING REQUIREMENTS: All daycare providers shall follow the following staff to child ratio:

(A) Point System for Family Child Care Facilities. A maximum of twelve (12) points using the following points designation, will be allowed per certified staff member. Any child, even if that child is not being watched for compensation, under the age of five (5) years old will be counted in the ratio if they are present at the facility or home.

A child 0-12 months of age 2 points (maximum of 2 enrolled)
A child 13 -24 months of age 1.5 points (maximum of 4 enrolled)
A child 25 months through 4 years of age 1 point
A child 5 years and up .5 points

(B) Ratio System for Group Child Care and Child Care Center Facilities. The following worker to child ratio shall be used for Group Child Care and Child Care Center Facilities:

(1) For those facilities who have a separate classroom for the children of the same age group, the ratio is as follows:

A room with children from 0-12 months of age: 1 worker per 4 children.
A room with children from 13-24 months of age: 1 worker per 6 children
A classroom with children from 25-36 months of age: 1 worker per 8 children
A classroom with children from 3-4 years of age: 1 worker per 12 children
A classroom with children 5 years of age or older: 1 worker per 18 children

(2) For those facilities who combine age groups into a single room, then a point system shall be used. A maximum of twelve (12) points using the following points designation, will be allowed per certified staff member.

A child 0-12 months of age: 2 points (maximum of 2 per worker)
A child 13 -24 months of age: 1.5 points (maximum of 4 per worker)
A child 25 months through 4 years of age: 1 point
A child 5 years and up: .5 points

(C) Service staff, such as cooks, janitors, bus drivers, or other on-site non-providers, shall not be counted in the required staff-child ratio unless they are licensed as a Child Care Worker, and are also providing child care at the licensed facility for a scheduled period of not less than twenty (20) hours per week. (Ord. 2759, 06-24-08; Ord. 2878, 8-11-11; Ord. 2878, 08-11-11)

6-3-10: RECORD MAINTENANCE: Each Child Care Facility shall maintain the following records on the premises at all times while the facility is in operation and make the same available upon request by any designated person set forth in Section 6-3-12 of this Title:

(A) A current facility license which shall be on display in a public area of the facility.

(B) A copy of each Child Care Worker Certification for each employee.

(C) A copy of all On-Site Non-Providers’ documentation.

(D) A separate file shall be maintained of each child receiving child care on the Premises. Said record shall contain the child's name, date of birth, address, parent/guardians name and contact information including work phone and/or cell phone numbers.

(E) Immunization records for each child as required by the State of Idaho, Idaho Code § 39-1118 and Idaho State Regulation 16.02.11.
(F) A daily listing of the children who are enrolled and who were actually cared for that day at the facility.

(G) A daily listing of the staff on duty and the hours worked.

(H) Medical release for each child signed by each parent or guardian. (Ord. 2759, 06-24-08)

6-3-11: RIGHT OF ENTRY FOR GOVERNING OFFICIALS: Every Facility shall, upon presentation of identification, allow the Fire Marshal, Fire Chief, Building Official, Police Officer, Idaho Department of Health and Welfare officer, Code Enforcement Officer, EIPHD Representative, City Clerk or other designated City Official immediate entry to the Child Care facility for the purposes of inspection for compliance with the terms of this Chapter. The license of any Child Care Facility or an employee's certification may be denied, suspended or revoked if such provider refuses to allow entry. (Ord. 2759, 06-24-08)

6-3-12: REPORTING OF ABUSE, ABANDONMENT OR NEGLECT: Pursuant to Idaho Code Section 16-605, any Child Care Facility, personnel or other person having reason to believe that a child under the age of eighteen (18) years has been abused, abandoned or neglected or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, abandonment or neglect shall report or cause to be reported within twenty-four (24) hours such conditions or circumstances to the proper law enforcement agency or the Idaho Department of Health and Welfare. Any employee of a Child Care facility shall also report any incident to their manager/owner. (Ord. 2759, 06-24-08)

6-3-13: LIABILITY: This Chapter is not intended to impose or create any private cause of action against the City, its agents, officials or employees for any loss or damage based upon the failure of any Child Care Facility, or the owner or operator thereof, to meet the standards contained in this Chapter or failure of such persons to enforce the standards and regulations adopted by this Chapter. (Ord. 2759, 06-24-08)

6-3-14: PENALTY: In addition to the revocation procedures as set forth in section 6-3-6(B), any willful violation of this Chapter shall be a misdemeanor. (Ord. 2816, 6-11-09)
## TITLE 7

### BUILDING REGULATIONS

<table>
<thead>
<tr>
<th>CHAPTER</th>
<th>SUBJECT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>International Building Code</td>
</tr>
<tr>
<td>2</td>
<td>International Property Maintenance Code</td>
</tr>
<tr>
<td>3</td>
<td>School Building Code</td>
</tr>
<tr>
<td>4</td>
<td>International Fuel Gas Code</td>
</tr>
<tr>
<td>5</td>
<td>Uniform Plumbing Code</td>
</tr>
<tr>
<td>6</td>
<td>International Residential Code</td>
</tr>
<tr>
<td>7</td>
<td>International Mechanical Code</td>
</tr>
<tr>
<td>8</td>
<td>National Electrical Code</td>
</tr>
<tr>
<td>9</td>
<td>Sign Code</td>
</tr>
<tr>
<td>10</td>
<td>International Fire Code</td>
</tr>
<tr>
<td>11</td>
<td>International Energy Conservation Code</td>
</tr>
<tr>
<td>12</td>
<td>Uniform Code for Building Conservation</td>
</tr>
<tr>
<td>13</td>
<td>International Existing Building Code</td>
</tr>
</tbody>
</table>
CHAPTER 1
INTERNATIONAL BUILDING CODE

SECTION:

7-1-1: International Building Code Adopted
7-1-2: Amendments to the International Building Code

7-1-1: INTERNATIONAL BUILDING CODE ADOPTED:


(B) Code on File: One (1) copy of the International Building Code, 2015 Edition, shall be retained by the City Clerk for use and examination by the public. (Ord. 3152, 12-21-2017)

7-1-2: AMENDMENTS TO THE INTERNATIONAL BUILDING CODE:

(A) A new Section, Section 101.2.2, Scope, shall be added to the International Building Code, 2015 Edition, as follow:

101.2.2 Scope. The provisions of this Code shall serve as the administrative, organizational and enforcement rules and regulations for the technical codes which regulate site preparation and construction, alteration, moving, demolition, repair, use and occupancy of buildings, structures and building service equipment within this jurisdiction. If there is any conflict between the International Building Code, 2015 Edition, and any other technical code, the International Building Code, 2015 Edition, shall control.

(B) Section 101.4.4, Plumbing, of the International Building Code, 2015 Edition, shall be amended to read as follows:

101.4.4 Plumbing. The provisions of the Idaho State Plumbing Code shall apply to the installation, alterations, repairs and replacement of plumbing systems, including equipment, appliances, fixtures, fittings and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system.

(C) Section 104.6, Right of entry, of the International Building Code, 2015 Edition, shall be amended to read as follows:

104.6 Right of entry. Where it is necessary to make an inspection to enforce the provisions of this Code, or where the building official has reasonable cause to believe that there exists in a structure or upon a premises a condition which is contrary to or in violation of this Code which makes the structure or premises unsafe, dangerous or hazardous, the building official is authorized to enter the structure or premises at reasonable times to inspect or to perform the duties imposed by this Code, provided that if such structure or premises be occupied that...
credentials be presented to the occupant and entry requested. If such structure or premises is unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, or if the owner or person in control cannot be located, the building official shall have recourse to the remedies provided by law to secure entry.

(D) Section 113.2, Limitations on authority, of the International Building Code, 2015 Edition, shall be amended to read as follows:

113.2 Limitations on authority. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equally good or better form of construction is proposed pursuant to the criteria set forth in section 104.11 of the International Building Code, 2012 Edition. The board shall have no authority to waive requirements of this Code.

(E) Section 305.2.3 shall be amended to read as follows:

305.2.3. Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

(F) Section 308.6.4 shall be amended to read as follows:

308.6.4. Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

(G) Section 310.5 shall be amended to read as follows:

310.5. Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, E or I, including:

i. Buildings that do not contain more than two (2) dwelling units;
ii. Boarding houses (nontransient) with sixteen (16) or fewer occupants;
iii. Boarding houses (transient) with ten (10) or fewer occupants;
iv. Care facilities that provide accommodations for five (5) or fewer persons receiving care;
v. Congregate living facilities (nontransient) with sixteen (16) or fewer occupants;
vi. Congregate living facilities (transient) with ten (10) or fewer occupants; or
vii. Dwelling units providing day care for twelve (12) or fewer children.
viii. Lodging houses with five (5) or fewer guest rooms.

(H) Section 310.5.1 shall be amended to read as follows:
310.5.1. Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code.

(I) Chapter 29, Plumbing Systems of the International Building Code, 2015 Edition, shall be amended to read as follows:

... Table 2902.1 Footnote “e” shall be amended to read as follows:

   e. For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, server sinks shall not be required.

Table 2902.1 Footnote “f” shall be added to read as follows:

   f. Drinking fountains are not required for an occupant load of thirty (30) or fewer.

Table 2902.1 Footnote “g” shall be added to read as follows:

   g. For business and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks shall not be required. (Ord. 3152, 12-21-2017)
CHAPTER 2
INTERNATIONAL PROPERTY MAINTENANCE CODE

SECTION:

7-2-1: International Property Maintenance Code Adopted
7-2-2: Amendments to the International Property Maintenance Code

7-2-1: INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED:


7-2-2: AMENDMENTS TO THE INTERNATIONAL PROPERTY MAINTENANCE CODE:

(A) Section 111.1 Application for appeal, of the International Property Maintenance Code, 2015 Edition, shall be amended to read as follows:

111.1 Application for appeal. Any person directly affected by a decision of the Code official or a notice or order issued under this Code shall have the right to appeal to the board of appeals, provided that written application for appeal is filed within twenty (20) days after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have been incorrectly interpreted. (Ord. 3152, 12-21-2017)
CHAPTER 3
SCHOOL BUILDING CODE

SECTION:

7-3-1: Adoption of Codes for School Buildings:

7-3-2: School Plan Review:

7-3-3: Plan Review Fees:

7-3-1: ADOPTION OF CODES FOR SCHOOL BUILDINGS: There are hereby adopted as official building codes of the City of Idaho Falls, Idaho all of the International Building Codes referenced in Idaho Code Section 39-4109, provided such Codes shall be applicable only to the extent set forth hereinbelow with respect to the construction of any new school building or addition or alteration to any existing school building which is estimated to cost in excess of $25,000. One copy of each of such Codes shall at all times be maintained at the office of the City Clerk and one copy shall be maintained at the office of the Community Development Services Department. (Ord. 2233, 5-22-97; Ord. 2577, 12-26-04; Ord. 3003, 04-23-15)

7-3-2: SCHOOL PLAN REVIEW: It shall be unlawful for any school district to advertise for any bid for the construction of any new school building or addition or alteration to an existing school building located or to be located within the City and estimated to cost in excess of twenty-five thousand dollars ($25,000), unless the plans have been first reviewed by the Building Official and approved in accordance with the provisions of the International Codes adopted in Section 7-3-1 of this Chapter. Nothing herein shall require the Building Official to inspect or otherwise enforce the provisions of such Codes once such plan review has been completed and approval thereof given by the Building Official. (Ord. 2233, 5-22-97; Ord. 2577, 12-26-04; Ord. 2964, 8-14-14)

7-3-3: PLAN REVIEW FEES: Prior to and as a condition for the approval of such plans, a school district seeking such plan review shall pay a plan review fee as set forth in the International Building Code. (Ord. 2233, 5-22-97; Ord. 2577, 12-26-04)
CHAPTER 4
INTERNATIONAL FUEL GAS CODE

SECTION:

7-4-1: INTERNATIONAL FUEL GAS CODE ADOPTED:


7-4-2: AMENDMENTS TO THE INTERNATIONAL FUEL GAS CODE:

(A) Section 103.2 of the International Fuel Gas Code, 2015 Edition, shall be amended to read as follows:

103.2 Appointment. The code official shall be appointed by the chief appointing authority of the jurisdiction.

(B) Section 109.1 of the International Fuel Gas Code, 2015 Edition, shall be amended to read as follows:

109.1 Application for appeal. A person shall have the right to appeal a decision of the code official to the board of appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder, have been incorrectly interpreted. The application shall be filed on a form obtained from the code official within twenty (20) days after the notice was served.

(C) Sections 620.2 and 620.7 of the International Fuel Gas Code, 2012 Edition, are hereby deleted.

(Ord. 2319, 3-25-99; Ord. 2477, 12-19-02; Ord. 2570, 12-09-04; Ord. 2727, 11-20-07; Ord. 2856, 12-16-10; Ord. 2989, 12215; Ord. 3152, 12-21-2017)
CHAPTER 5
UNIFORM PLUMBING CODE

SECTION:

7-5-1: Uniform Plumbing Code Adopted
7-5-2: Amendments to the Uniform Plumbing Code

7-5-1: IDAHO STATE PLUMBING CODE ADOPTED

IDAHO STATE PLUMBING CODE ADOPTED
(A) Plumbing Code Adopted: The Idaho State Plumbing Code, adopted in 2013 pursuant to Idaho Code Title 54, Chapter 26, is hereby adopted as the official Plumbing Code of the City, except for those portions that are deleted, modified or amended by the provisions of this Chapter.

(B) Idaho State Plumbing Code on File: Three (3) copies of the Idaho State Plumbing Code adopted by this Chapter and duly certified by the Clerk, shall be retained by the City for use in and examination by the public. One (1) copy shall be filed in the Office of the City Clerk and two (2) copies shall be filed in the Office of the Department of Community Development Services. (Ord. 3003, 04-23-15)

7-5-2: AMENDMENTS TO THE IDAHO STATE PLUMBING CODE: The following amendments shall be made to the Idaho State Plumbing Code:

(A) Chapter 1, Administration.

(B) Chapter 3, General Regulations.
313.12.4 shall be deleted.

(C) Chapter 4, Plumbing Fixtures and Fixture Fittings.
402.4 “Metered Faucets,” shall be amended to read as follows: “Self-closing or self-closing metering faucets may be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants, and convention halls. Metered faucets shall deliver a maximum of 0.26 gallons (1.0 liter) of water per use.”
411.4 shall be deleted.
412.1 shall be amended to read as follows: “Plumbing fixtures shall be provided for the type of building occupancy and in the minimum number shown in Chapter 29 of the City’s currently adopted International Building Code, (2012 Edition).”

(D) Chapter 5, Water Heaters.
508.5 shall be amended to read as follows: “Discharge from a relief valve into a water heater pan shall be allowed, provided that the pan connection and its drain piping are sized at least one (1) pipe size larger than the outlet of the relief valve.”

(E) Chapter 6, Water Supply and Distribution.

604.8 Exception shall be amended by the retention of the first sentence only and the deletion of all other sentences in such Exception to 604.8.

(F) Chapter 7, Sanitary Drainage.

710.9 shall have a sentence added to it as follows: “A single pump is permitted for public use occupancies when the sump basin receives the discharge of not more than one (1) toilet and ten (10) other drainage fixture units.”

(G) Chapter 10, Traps and Interceptors.

Table 10-1 shall be amended to change the footnote that is indicated by an asterisk to read as follows: “The trap arm lengths of water closets or similar fixtures which depend upon self-siphoning and re-filling of their traps for proper operation shall be unlimited.”

(H) IDAPA Rule 07.02.06.011.16 shall be deleted and replaced with the following language:

Pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, and other similar fixtures shall be connected directly to the drainage system. A floor drain shall be provided adjacent to the fixture, and the fixture shall be connected on the sewer side of the floor drain trap, provided that no other drainage line is connected between the floor drain waste connection and the fixture drain. The fixture and floor drain shall be trapped and vented as required by this Code.

(I) IDAPA Rule 07.02.06.011.20 shall be deleted and replaced with the following language:

Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm).
CHAPTER 6
INTERNATIONAL RESIDENTIAL CODE

SECTION:

7-6-1: INTERNATIONAL RESIDENTIAL CODE ADOPTED:

(A) International Residential Code Adopted: The International Residential Code for One and Two Family Dwellings, 2015 Edition, published by the International Code Council, Inc., including Appendix M, is hereby adopted as an official code of the City, except the portions deleted, modified and amended by the provisions of this Chapter.

(B) Code on File: One (1) copy of the International Residential Code for One and Two Family Dwellings, 2015 Edition, shall be retained by the City Clerk for use and examination by the public. (Ord. 2236, 6-12-97; Ord. 2474, 12-19-02; Ord. 2571, 12-09-04; Ord. 2724, 11-20-07; Ord. 2859, 12-16-10; Ord. 2990, 1-22-15; Ord. 3152, 12-21-2017)

7-6-2: AMENDMENTS TO INTERNATIONAL RESIDENTIAL CODE:

(A) The exceptions to Section R101.2, Scope, shall be amended to read as follows:

Exceptions: Owner-occupied lodging houses with five (5) or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family dwellings.

(B) Paragraph (1) of the “Building” section of Section R105.2, Work Exempt from Permit, shall be amended to read as follows:

Building:

1. One-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 200 square feet (18.58 m2).

2. Fences not over seven (7) feet (one thousand, eight hundred twenty-nine (1,829) mm) high may be exempted from the requirement for a building permit in the absence of any other

3. Retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge.

4. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons (18,927 L) and the ratio of height to diameter or width does not exceed 2 to 1.

5. Sidewalks and driveways.

6. Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
7. Prefabricated swimming pools that are greater than four (4) feet (one thousand, two hundred nineteen (1219 mm) deep.

8. Swings and other playground equipment.

9. Window awnings supported by an exterior wall which do not project more than 54 inches (1372 mm) from the exterior wall and do not require additional support.

10. Decks not exceeding 200 square feet (18.58 m²) in area, that are not more than 30 inches (762 mm) above grade at any point, are not attached to a dwelling and do not serve the exit door required by Section R311.4.

11. Flag poles.

... 

(F) The Exception to Section R302.2, Townhouses, shall be amended to read as follows:

Exception: A common two-hour or two (2) one-hour fire resistance rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated of fire exposure from both sides and shall extended to and be tight against the exterior walls and the underside of the roof sheathing. Penetration of electrical outlet boxes shall be in accordance with Section R302.4.

(G) Section R303.4, Mechanical ventilation, shall be amended to read as follows:

R303.4 Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3.

... 

(H) Section R313, Automatic Fire Suppression System, shall be deleted in its entirety.

(I) Section R315.3, Where Required in Existing Dwellings, shall be amended and read as follows:

R315.3 Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

Exceptions:

1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and
2. Installation, alteration, or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section.

(J) Section R322.1.10, As-built Elevation Documentation shall be deleted in its entirety.

(K) Subparagraph 2.2. of Section R322.2.2, Enclosed Area Below Design Flood Elevation, shall be amended to read as follows:

**R322.2.2.** The total net area of all opening shall be at least one (1) square inch (645 mm2) for each square foot (.093 m2) of enclosed area, or the opening shall be designed and the construction documents shall include a state that the design and installation of the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters.

(K) IRC Table R403.1(1) & (2) Min. Width and Thickness for Concrete Footings shall be replace with the following:

<table>
<thead>
<tr>
<th>LOAD-BEARING VALUE OF SOIL (psf)</th>
<th>1,500</th>
<th>2,000</th>
<th>3,000</th>
<th>≥ 4,000</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-story</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>2-story</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>3-story</td>
<td>17</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>4-inch brick veneer over light frame or 8-inch hollow concrete masonry</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>1-story</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>2-story</td>
<td>21</td>
<td>16</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>3-story</td>
<td>24</td>
<td>16</td>
<td>12</td>
<td>12</td>
</tr>
<tr>
<td>8-inch solid or fully grouted masonry</td>
<td>12</td>
<td>12</td>
<td>12</td>
<td>12</td>
</tr>
</tbody>
</table>

(L) The Exception to Section R405.1, Concrete or Masonry Foundations, shall be amended to read as follows:

**Exception:**

A drainage system is not required when the foundation is installed on well-drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group 1 and Group II soils, as detailed in Table R405.1.

(M) Section R302.13, Fire Protection of Floors, and the exceptions to R302.13 shall be deleted in their entirety.

(N) Table R602.7.5, Minimum Number of Full height studs at each end of header in exterior walls, shall be amended to read as follows:
O) Section R602.10, Wall Bracing shall be amended to read as follows:

R602.10 Wall Bracing. Buildings shall be braced in accordance with this section or, when applicable section R602.12, or the most current edition of APA System Report SR102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this section, those portions shall be designated and constructed in accordance with section R301.1.

P) Section N1102.4.1.2, (R402.4.1.2) Testing, shall be amended to read as follows:

N1102.4.1.2 (R402.4.1.2) Testing option. Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than five (5) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing:

i. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed;

ii. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers;

iii. Interior doors shall be open;

iv. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;

v. Heating and cooling system(s) shall be turned off;
vi. HVAC ducts shall not be sealed; and

vii. Supply and return registers shall not be sealed.

(Q) Subparagraph Section N1102.4.1.3. (R402.4.1.3) Visual Inspection Option, shall be amended to read as follows:

N1102.4.1.3 (R402.4.1.3) Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation.

(R) The following section shall be added to the International Residential Code, 2012 Edition:

N1103.2.3 (R403.2.3). Building framing cavities shall not be used as ducts or plenums. Exception: Building framing cavities used as ducts or plenums shall comply with Section M1601.1.1.

(S) Table N1102.2.2 (Table R402.1.1) shall be amended to read as follows:

<table>
<thead>
<tr>
<th>Insulation and Fenestration Requirements By Component</th>
</tr>
</thead>
<tbody>
<tr>
<td>Climate Zone</td>
</tr>
<tr>
<td>---------------</td>
</tr>
<tr>
<td>5 and Marine 4</td>
</tr>
<tr>
<td>6</td>
</tr>
</tbody>
</table>

(Ord. 2990, 1-22–15; Ord. 3152, 12-21-2017)
CHAPTER 9
SIGN CODE

SECTION:

7-9-1: Title of Chapter
7-9-2: Purpose
7-9-3: Enforcement
7-9-4: City License Required
7-9-5: Applications
7-9-6: Fees
7-9-7: Bond Required
7-9-8: Bonds to be Executed by Qualified Surety
7-9-9: Insurance Policy
7-9-10: Sign Permit Required
7-9-11: Message Substitution
7-9-12: Definitions
7-9-13: Pasting and Tacking Prohibited
7-9-14: Noise Signs Prohibited
7-9-15: Animated Signs and Flashing Signs Prohibited
7-9-16: Off-Premise Signs Prohibited
7-9-17: Marquee Signs
7-9-18: Copy Area
7-9-19: Non-Conforming Signs and Their Removal
7-9-20: Variances
7-9-21: Signs Over Streets Prohibited
7-9-22: Signs Not to Cover Windows, Doors or Similar Openings
7-9-23: Blanketing
7-9-24: Signs on Public Property
7-9-25: Signs on Private Property
7-9-26: Maintenance of Signs
7-9-27: Removal of Signs
7-9-28: Signs to Comply with Zoning Ordinance
7-9-29: Removal of Non-Conforming Signs
7-9-30: Compliance with Safety Regulations
7-9-31: Erection of Signs Over Public Streets or Sidewalks - Safety Precautions
7-9-32: Promulgation of Safety Regulations
7-9-33: Height of Signs
7-9-34: Construction Project or Land Development Sign
7-9-35: Sports Field Fencing Sign
7-9-36: Specialty Signs
7-9-37: Electric Sign
7-9-38: Shopping Center Sign
7-9-39: Signs, Zones Permitted and Controls
7-9-40: Signs Erected in Commercial Zones
7-9-41: Portable Signs
7-9-42: Revolving Pole Sign
7-9-43: Electronic Message Center Signs and Changeable Copy Panels
7-9-44: Sign Background
7-9-45: Design
7-9-46: Construction
7-9-47: Projection and Clearance
7-9-48: Master Planned Development Signs
7-9-49: Billboards

7-9-1: TITLE OF CHAPTER: This Chapter shall be known as the "Sign Code." (Ord. 3056, 02-25-16)

7-9-2: PURPOSE: The Council hereby finds and declares that it is necessary to regulate the construction, erection, maintenance, electrification, illumination, type, size, number, and location of signs to protect the health, safety, property, and welfare of the public, improve the neat, clean, orderly, and attractive appearance of the City; provide for the safe erection and maintenance of signs; eliminate signs that demand, rather than invite, public attention; and provide for sign needs of special areas, facilities, centers, and districts. (Ord. 3056, 02-25-16)

7-9-3: ENFORCEMENT: The Community Development Services Department shall be responsible for the enforcement and administration of this Code. The Community Development Services Department shall inspect each sign for which a permit has been issued and shall require the proper maintenance of all signs subject to the provisions of this Code. Upon presentation of proper credentials, an agent of the Community Development Services Department may enter at reasonable times any building, structure, or premises in the City to perform any duty imposed by this Code. (Ord. 3003, 04-23-15)

7-9-4: CITY LICENSE REQUIRED: It shall be unlawful for any person, partnership or corporation to erect or to engage in the business of erecting any sign as herein defined within the corporate limits of the City of Idaho Falls unless such person, partnership, or corporation shall have obtained a license from the City of Idaho Falls authorizing him or it to do sign contracting, or unless such persons are expressly exempted from the provisions hereof. Application for permits to erect signs will be accepted and permits granted only to such persons, partnership, or corporation as are licensed by the City of Idaho Falls to perform such sign contracting.

7-9-5: APPLICATIONS: Application for such license shall be made in writing upon forms furnished by the City Clerk. The application shall contain such information as may be required by the Community Development Services Department to determine compliance with this ordinance. (Ord. 04-23-15)

7-9-6: FEES: Fees for contractor's license shall be in an amount set from time to time by Resolution of the Council and shall not be prorated for portions of a year for renewal of license. (Ord. 2964, 8-14-14; Ord. 3056, 02-25-16)

7-9-7: BOND REQUIRED: No contractor shall be issued a permit for the erection of a sign in the City until such person shall have filed with the City Clerk a bond in an amount set from time to time by Resolution of the Council conditioned upon compliance with this Sign Code. (Ord. 2964, 8-14-14; Ord. 3056, 02-25-16)
7-9-8: **BOND TO BE EXECUTED BY QUALIFIED SURETY:** All bonds shall be executed by a qualified surety company licensed to do business in the State of Idaho and shall be conditioned upon the faithful observance of the ordinances of the City of Idaho Falls now or hereafter enacted relating to the erection and maintenance of signs, to save and keep harmless the City of Idaho Falls, its officials, and employees from all damages, liabilities, losses or judgments that may be recovered against the City by reason of negligent erection of any of the aforesaid signs, or negligent maintenance of any sign owned by, or maintained by such sign contractor.

7-9-9: **INSURANCE POLICY:** All licensees are required to furnish to the Clerk a copy of an insurance policy insuring the licensee against loss by reason of liability for bodily injury, death, or property damage caused by or arising out of the licensed activity. The City and its officers and agents must be named as additional insured under the policy. The amount of such insurance shall not be less than one hundred thousand dollars ($100,000) for injury or death to one (1) person nor less than three hundred thousand dollars ($300,000) for injury or death to more than one (1) person in any (1) occurrence, nor less than twenty-five thousand dollars ($25,000) for property damage. Said policy shall not be cancelable unless ten (10) days’ prior written notice is given to the City. If said policy lapses, is canceled, or otherwise becomes ineffective, the license shall automatically and forthwith become void and of no effect, and the Clerk is not required to give notice thereof to the licensee. (Ord. 3056, 02-25-16)

7-9-10: **SIGN PERMIT REQUIRED:**

(A) Subject to the provisions of this Sign Code, no sign shall be erected, re-erected, constructed, altered, or maintained, except as provided by this Sign Code and a permit for the same has been issued by the Community Development Services Department. A separate permit shall be required for each person or entity erecting a sign or signs and a separate permit shall be required for each separate sign on a single supporting structure.

(B) The following shall not be considered signs as defined and regulated by this Sign Code:

   (1) Traffic and other municipal signs (including those shown within the City’s Signage and Wayfinding Program), house numbers, legal notices, railroad crossing signs, danger and warning signs and state, and federal highway signs.

   (2) Memorial tablets or tablets containing the name, date, erection, and use of the buildings, when built into the walls of the buildings and constructed of bronze, brass, marble, stone, or other non-combustible materials.

(C) No illuminated or floodlighted sign shall be connected to the electrical wiring source unless an electrical permit has been issued by the Building Official or designee.

(D) Conversion of a sign face from a conventional sign or billboard to a tri-vision, LED sign or billboard, or other multiple message sign will require a sign permit.

(E) No permanent sign permit shall be issued to any person other than a licensed sign contractor. All sign permit requests shall be submitted with one (1) complete set of drawings and specifications.
F) A sign permit shall be required for the following signs but no fee will be charged for non-illuminated and non-floodlighted flat signs, wall signs, and freestanding signs having an area not in excess of one hundred square feet (100 ft²) when placed at the site of a building under construction or demolition provided that not more than one (1) such sign shall be erected on each street frontage and also provided said signs are not erected more than sixty (60) days prior to commencement of construction or demolition and are removed within thirty (30) days after completion thereof.

(Ord. 2669, 09-29-06; Ord. 3003, 04-23-15; Ord. 3056, 02-25-16, Ord. 3207, 09-08-18)

7-9-11: MESSAGE SUBSTITUTION: A noncommercial message may be substituted for any commercial message or for any noncommercial message. (Ord. 2782, 10-9-08; Ord. 2964, 8-14-14; Ord. 3056, 02-25-16)

7-9-12: DEFINITIONS: The words and terms used in this Sign Code shall have the meanings indicated below.

AWNING: An architectural projection that provides weather protection, identity, or decoration and is wholly supported by the building to which it is attached. An awning is comprised of lightweight, rigid skeleton over which a covering is attached.

BLANKETING: The partial or complete shutting off of the face of one sign by another sign.

BUILDING: Any structure built for the support, shelter, and enclosure of persons, animals, chattels, or property of any kind.

BUILDING FACADE: That portion of an exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevation.

CANOPY: An architectural projection that provides weather protection, identity, or decoration and is supported by the building to which it is attached and at the outer end by not less than one (1) stanchion. A canopy is comprised of a rigid structure over which a covering is attached.

CHANGEABLE COPY PANEL: A panel which is characterized by changeable copy, regardless of method of attachment.

COMMERCIAL ZONE: Commercial zones shall be the PB, LC, HC, and CC zones as well as the PT overlay.

COMMERCIAL, INDUSTRIAL/SPECIAL PURPOSE ZONE: Industrial/manufacturing commercial zones shall be the LM, I&M, and R&D zones.

DISSOLVE: A mode of message transition accomplished by varying the light intensity or pattern, where the first message gradually appears to dissipate and lose legibility simultaneously with the gradual appearance and legibility of the second message.

FADE: A mode of message transition accomplished by varying the light intensity, where the first message gradually reduces intensity to the point of not being legible and the subsequent message gradually increases the intensity to the point of legibility.
FOOTCANDLE: A unit of illumination produced on a surface all points of which are one (1) foot from a uniform point source equivalent to one (1) candle brightness of illumination.

FRONTAGE: The lineal measurement of a lot or building, whichever is less, facing upon a street. In shopping centers, frontage for each separate store shall be based on the width of the front of each business. For the shopping center as a whole, frontage shall be based on the total lineal footage of all building frontage onto a street.

HABITABLE: For purposes of this ordinance, habitable means those areas of a building which are approved under building and fire code for human occupancy and are located at or above ground level.

HEIGHT (OF SIGN): The distance from the base of the sign at grade to the highest attached component of the sign.

MAINTENANCE: Every sign shall be maintained in complete operating condition and in good safety and repair. No broken, bent, cracked, decayed, dented, leaning, splintered, ripped, torn, twisted, or signs in danger of falling shall be allowed. The landscaped area in which any sign is placed shall be kept free from weeds, garbage, and debris. Maintenance includes the repair of facades where signs have been removed, the painting, cleaning, and repairing of the sign. Maintenance does not include structural alterations, cosmetic, or style changes or enlargements of face changes.

MARQUEE: A permanent roofed structure attached to and supported by the building and projecting over public right-of-way.

NON-COMBUSTIBLE MATERIAL: Any material which will not ignite at or below a temperature of 1200 degrees F during an exposure of five (5) minutes and will not continue to burn or glow at that temperature. Tests for determining combustibility shall conform to the ASTM E136-79.

PERSON: A person, association, partnership or corporation, trust or any other entity recognized by law.

PROFESSIONAL OFFICE ZONE: Professional office zones shall be the R3A and PB zones.

RESIDENTIAL, LOW DENSITY: Low density residential zones shall include the RE, RP, and R1 zones.

RESIDENTIAL, HIGH DENSITY: High density residential zones shall include the R3 and R3A zones.

RESIDENTIAL, MEDIUM DENSITY: Medium density residential zones shall include the R2, TN, and RMH zones.

SIGN: A name, identification, description, display, or illustration, which is affixed to, painted, or represented directly or indirectly upon a building, or other outdoor surface which directs attention to or is designed or intended to direct attention to a sign face or to an object, product, place, activity, person, institution, organization or business.
SCROLL: A mode of message transition where the message appears to move vertically across the display surface.

SIGN, ANIMATED: A sign depicting action, motion, light, or color changes through electrical or mechanical means. Includes the use of sequential switching on and off of graphically arranged fluorescent lamps, cathode tubes, LEDs, or incandescent bulbs so as to provide the illusion of movement.

SIGN, AWNING: Any sign that is a part of an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area.

SIGN, BACKGROUND: The entire area of a sign upon which copy is placed.

SIGN, BUILDING: Any sign that is permanently attached to a building including: wall signs, awning signs, projecting sign, window signs, and roof signs.

SIGN, BILLBOARD: An off-premise sign supported by one (1) or more upright columns or braces in or upon the ground having either a solid background used for pasting of a sign, a display device capable of presenting three (3) separate images sequentially by rotating triangular devices, or a programmable display that has the capability, through light emitting diodes (LED) technology, to present text or symbolic imagery.

SIGN, CLOTH: Any sign executed upon or composed on any flexible fabric.

SIGN, COPY AREA: The area within the outer boundaries of standard geometrical shapes (primarily squares, rectangles, and circles) containing and defined by the extreme limits of writing, representation, emblem, or other display, together with any material, lighting, or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed but not including any framework, supports, structure, or wall.

SIGN, ELECTRONIC MESSAGE CENTER: A sign that utilizes computer-generated messages or some other electronic means of changing copy. These signs include, but are not limited to, displays using incandescent lamps, LEDs, LCDs, or a flipper matrix.

SIGN, ENTRANCE: A sign located within the front setback at the entrance to a property zoned commercial or a sign located at the entrance to a subdivision or development within residential zones.

SIGN, FLASHING: A sign which uses strobe lights, rotary beacons, zip lights, flashing lights, or signs illuminated in such a way they appear to flash.

SIGN, FREESTANDING POLE: A sign which is supported by one (1) or more columns upright or braces in or upon the ground.

SIGN, ILLUMINATED: A sign in which an internal or external source of light is used in order to make the message or sign visible.
SIGN, MASTER PLANNED DEVELOPMENT: Signs that identify large commercially zoned areas, adjacent to arterial streets, and that are intended to be developed together according to an approved Master Land Use Plan.

SIGN, MARQUEE: Any sign attached to or made an integral part of a marquee.

SIGN, MONUMENT: A free-standing sign where the sign face is supported by a continuous and solid base that extends the full length of the sign face.

SIGN, NON-COMBUSTIBLE: A sign that is constructed entirely of non-combustible material.

SIGN, OFF PREMISE: Any sign which directs attention to a use, products, commodity or service not related to the premises on which it is located.

SIGN, ON PREMISE: A sign promoting any service, product, or business located, sold or available on the premises upon which the sign is located.

SIGN, PORTABLE: Any sign not permanently attached to a permanent structure.

SIGN, PROJECTING: Any sign attached to a building or structure and extending perpendicularly from said building or structure.

SIGN, REVOLVING: A sign which has vertical or horizontal rotation of any of its parts by mechanical means.

SIGN, ROOF: Any sign erected upon or supported by a parapet or roof of a building.

SIGN, SPECIALTY: Signs placed in the public right-of-way through programs administered by the Airport or Parks and Recreation Departments.

SIGN, STRUCTURE: Any structure which supports any sign as defined in this Code.

SIGN, WALL: A sign affixed to a wall of a building or structure and which projects not more than eighteen (18) inches over public property from the building or structure wall and which does not extend above the parapet, eaves or building facade of the building on which it is located.

SIGN, WINDOW: Any permanent or semi-permanent sign affixed to a building’s windows such as vinyl wraps and lettering. This excludes hours of operations notifications.

TRANSITION: A visual effect used to change from one message to another.

TRAVEL: A mode of message transition where the message appears to be move horizontally across the display surface.

TRIM, NON-STRUCTURAL: Molding, battens, capes, nailing strips, latticing, cutouts or letters and walkways which are attached to a sign structure.
INTERNATIONAL BUILDING CODE: The officially adopted building code of the City of Idaho Falls. (Ord. 2445, 4-25-02; Ord. 2585, 2-11-05; Ord. 2669, 9-29-06; Ord. 2782, 10-9-08; Ord. 2817, 7-23-09; Ord. 3056, 02-25-16; Ord. 3181, 04-12-18; Ord. 3207, 09-08-18)

7-9-13: PASTING AND TACKING PROHIBITED: No sign shall be pasted or glued directly on any exterior wall or roof or affixed directly on any exterior wall or roof by means of any similar adhesive substance. No paper or cloth sign shall be tacked directly on any exterior wall or roof.

7-9-14: NOISE SIGNS PROHIBITED: It shall be unlawful to use in connection with any sign or to use for advertising purposes any radio, phonograph, whistle, bell or any other sound or noise making or transmitting device or instrument for the purpose of commercial advertising.

7-9-15: ANIMATED SIGNS AND FLASHING SIGNS PROHIBITED: Any person who constructs or uses a flashing sign within the City is guilty of a misdemeanor. (Ord. 2445, 4-25-02; Ord. 2585, 2-11-05; Ord. 3056, 02-25-16)

7-9-16: OFF-PREMISE SIGNS PROHIBITED: All off-premise signs are prohibited, except for Billboards allowed pursuant to this Sign Code. (Ord. 3056, 02-25-16)

7-9-17: MARQUEE SIGNS: Any person who constructs or uses a marquee sign over public property within the City is guilty of a misdemeanor. (Ord. 3056, 02-25-16)

7-9-18: COPY AREA: Copy area of a building facade or of multiple copy signs shall not exceed twenty percent (20%) of the background facing to which it is applied. (Ord. 3056, 02-25-16)

7-9-19: NON-CONFORMING SIGNS AND THEIR REMOVAL: Signs in existence on the date of enactment of this Sign Code which do not conform to the provisions of this Sign Code, but which were constructed, erected, affixed or maintained in compliance with all previous regulations, shall be regarded as non-conforming signs which may be continued from the effective date of this Sign Code, but shall not be structurally altered, relocated, or replaced without immediately being brought into compliance with all the provisions of this Sign Code. (Ord. 3056, 02-25-16)

7-9-20: VARIANCES: The purpose of this Sign Code is to require signs necessary to advise the traveler and resident of the services and products available on premises be related to the size of the building housing such goods and services. A person may seek a variance to the provisions of this Sign Code governing the height or permitted square footage of the copy area for on-premise signs by following the procedures outlined in the City Zoning Code. The Board of Adjustment may grant a variance for signs regulated by this Sign Code if it finds the proposed sign:

(1) Does not negatively impact its neighborhood environment or aesthetics and is absolutely necessary to adequately identify the premises.

(2) The frontage of the building upon which the maximum permitted sign size is based is disproportionately small in comparison to the floor area or size of the building associated with such sign; or

(3) Is historically significant to the community.
A variance may not be granted to the standards or findings required under Sections 7-9-43, 7-9-48, and 7-9-49 or for the spacing standards for Billboard locations found in Tables 1-7 of this Sign Code. (Ord. 2782, 10-9-08; Ord. 3056, 02-25-16; Ord. 3207, 09-08-18)

7-9-21: SIGNS OVER STREETS PROHIBITED: It shall be unlawful to erect or maintain any sign over any street or alley, except as herein expressly provided. (Ord. 3056, 02-25-16)

7-9-22: SIGNS NOT TO COVER WINDOWS, DOORS OR SIMILAR OPENINGS: No sign shall cover a window, doorway, or other opening providing light or ventilation or exit facilities which are required by the most current City-adopted edition of the International Building Code or International Fire Code to be necessary to give access to the building, or to afford fire protection in the event of a fire; provided, however, that flat signs, wall signs, cloth signs and projecting signs may cover transoms. (Ord. 2585, 2-11-05; Ord. 3056, 02-25-16)

7-9-23: BLANKETING: To prevent blanketing, no wall sign shall be erected to project more than eighteen (18) inches over public property. Projection shall be measured from the facing of the structure to which the sign is attached and shall be parallel thereto. No outdoor advertising sign shall be placed in such a manner so as to obscure an existing sign. (Ord. 3056, 02-25-16)

7-9-24: SIGNS ON PUBLIC PROPERTY: It shall be unlawful for any person to fasten or attach, paint, or place any sign, handbill, poster, advertisement, or notice of any kind or sort, or to cause the same to be done in or upon the curbstone, lamp post, telephone pole, electric light or power pole, hydrant, bridge or tree, or in or upon any portion of any sidewalk or street. It shall be unlawful to paste, place, paint, or attach any sign defined in this Sign Code on any building, street, or property of the City, except as provided by this Sign Code. (Ord. 3056, 02-25-16)

7-9-25: SIGNS ON PRIVATE PROPERTY: It shall be unlawful for any person to fasten or attach, paint, or place, any sign as defined in this Sign Code upon any private wall, window, door, gate, fence, or sign upon any other personal property without the consent of the owner or lessee, or someone authorized to act on behalf of such owner on lessee. (Ord. 3056, 02-25-16)

7-9-26: MAINTENANCE OF SIGNS: Signs regulated by this Sign Code shall be maintained in good visual appearance and structural condition at all times. The Community Development Services Department and its agents shall not be liable for the negligence or failure of the owner, or the person responsible for maintaining any sign, to keep such sign in good condition. (Ord. 3003, 04-23-15; Ord. 3056, 02-25-16)

7-9-27: REMOVAL OF SIGNS: Any person occupying a building or portion of a building, who owns or maintains a sign in connection therewith shall, upon vacating the premises, or discontinuing the business advertised, cause the sign to be removed. Any person who owns and maintains a sign which is maintained for the benefit of another person who occupies a building or part of a building whereon the sign is located shall cause the sign to be removed if the person for whom the sign is maintained vacates the premises. Failure of the owner of the sign or of the person responsible for maintaining same to remove the sign within thirty (30) days after notice from the Community Development Services Department shall be considered as a violation of this Sign Code and shall subject the owner of the sign and the owner of the property to the penalties herein. If a sign is advantageous to pending sale of premises, permission may be granted, upon written proof of pending
sale, to lease said sign on premises for a period not to exceed ninety (90) days, provided all copy is removed leaving a blank background area. (Ord. 3003, 04-23-15; Ord. 3056, 02-25-16)

7-9-28: SIGN TO COMPLY WITH ZONING CODE: All signs shall be erected and maintained in full compliance with this Sign Code and the Zoning Code. (Ord. 3056, 02-25-16)
7-9-29: REMOVAL OF NON-CONFORMING SIGNS:

(A) Any sign not in conformance with the provision of this Sign Code and/or which was erected or installed without a permit, shall be removed within thirty (30) days upon notification by the Community Development Services Department.

(B) The provisions of Section 7-9-19 shall apply to such non-conforming signs.

(C) Any existing sign, conforming to the provisions of this Sign Code relative to size and location, but non-conforming to structural requirements shall be removed or replaced within one (1) year upon written notice from the City. However, if they are deemed to be a hazard or more than fifty percent (50%) damaged, they shall be removed or repaired in accordance with the structural requirements of this Sign Code within ten (10) days after receiving notice from the City.

(D) Any sign determined to be abandoned shall be removed within thirty (30) days of notification by the Community Development Services Department to the property owner and/or owner of the business advertisement and or owner of the sign.

(Ord. 04-23-15; Ord. 3056, 02-25-16)

7-9-30: COMPLIANCE WITH SAFETY REGULATIONS: It is unlawful for any person erecting any sign or other advertising structure to fail to comply strictly with the requirements of this Sign Code. (Ord. 3056, 02-25-16)

7-9-31: ERECTION OF SIGNS OVER PUBLIC STREETS OR SIDEWALKS - SAFETY PRECAUTIONS: Whenever any sign or other advertising structure shall be erected in whole or in part on or over any public street or sidewalk, the person or persons performing the work shall, before proceeding to erect the same, take all precautions necessary to ensure the safety of persons and property on such street or sidewalk. Before hoisting any material above the surface of any street or sidewalk or placing any material upon the traveled portion of any street or sidewalk, the persons or person performing such work shall exclude the traveling public from the portion of such street or sidewalk in which such work is to be done by means of suitable barriers, protected walkways and/or other adequate warning devices. The Community Development Services Department may require the owner or sign contractor to provide a guard or guards to exclude all persons not concerned in the performance of the work from the portion of the street or sidewalk in which the work is to proceed. When hoisting any sign or advertising structure above the surface of any street or sidewalk, the same shall be accomplished by hoisting devices with proper design and adequate capacity to accomplish the work in accordance with established engineering practices, all of which hoisting equipment shall be kept and maintained in good and workable condition. (Ord. 3003, 04-23-15; Ord. 3056, 02-25-16)

7-9-32: PROMULGATION OF SAFETY REGULATIONS: The Director of the Community Development Services Department may establish such rules and regulations as reasonably necessary to protect the public from injury in the course of the erection of signs and other advertising structures and when such regulations are established, all holders of sign permits shall comply strictly therewith. Such regulations shall be filed with the Clerk. (Ord. 3003, 04-23-15; Ord. 3056, 02-25-16)
7-9-33: HEIGHT OF SIGNS: No sign shall exceed the height limitations established for each zone as set forth in this Sign Code. (Ord. 3056, 02-25-16)

7-9-34: CONSTRUCTION PROJECT OR LAND DEVELOPMENT SIGN: A sign of no greater than one hundred square feet (100 sq. ft.) and fifteen feet (15’) in height in commercial zones, and no greater than thirty two square feet (32 sq. ft.) and fifteen feet (15’) in height in residential zones may be erected on sites on which a construction project is under development. Such sign may be erected no earlier than sixty (60) days prior to the beginning of the construction project and removed within thirty (30) days after such construction is completed. (Ord. 3056, 02-25-16)

7-9-35: SPORTS FIELD FENCING SIGN: Signs placed on sports field fencing may be allowed provided the sign does not exceed the height of the fence and shall be permissible only on the field side of the fence facing the playing field. (Ord. 2782, 10-9-08; Ord. 3056, 02-25-16)

7-9-36: SPECIALTY SIGN: A specialty sign may be hung over public streets or walks after approval by the Director of the Community Development Services Department. (Ord. 3003, 03-23-15; Ord. 3056, 02-25-16)

7-9-37: ELECTRIC SIGN: All signs which utilize or are illuminated by electricity shall comply with the most current City-adopted edition of the National Electrical Code and International Fire Code. An electric sign must have the installer's name, address, date of installation, and the listing label affixed to the sign in such a manner that it can be easily read from the ground using only the naked eye. (Ord. 2585, 2-11-05; Ord. 3056, 02-25-16)

7-9-38: SHOPPING CENTER SIGN: One (1) free standing sign is permitted on each street frontage. Where there is more than four hundred and fifty feet (450’) of street frontage a second free standing sign is allowed (maximum of two (2)), and must be three hundred and thirty feet (330’) from any other free standing sign on the same side of the street. The size and height shall be the same as allowed for a Free Standing Pole Sign within that Zone. The design and construction of the free standing signs shall be integrated with the architecture of the on-site buildings by the use of similar construction materials and colors as used in the building(s). Separate buildings within multi-tenant developments that are within seventy five feet (75’) of the public right-of-way are allowed one (1) monument style sign with a maximum height of six feet (6’) and a maximum copy area of thirty two square feet (32 sq. ft.). The spacing between these monument signs must be a minimum of one hundred feet (100’), and the sign must be located in a landscaped strip of at least seven feet (7’) by ten feet (10’). Electronic message centers are not allowed to be a part of these monument signs. (Ord. 2445, 4-25-02; Ord. 3056, 02-25-16)

7-9-39: SIGNS, ZONES PERMITTED AND CONTROLS: Tables 1-7 of this Sign Code are hereby made a part of this section by reference. It is unlawful for any person to erect or otherwise install a sign having a size or height greater than allowed in Sign Code Tables 1-7. It is unlawful for any person to erect or otherwise install a sign located on the site or in a zone in violation of the controls specified in Tables 1-7 of this Sign Code. (Ord. 3056, 02-25-16)

7-9-40: SIGNS ERECTED IN COMMERCIAL ZONES: All signs erected in commercial zones shall have all structural members made entirely of non-combustible material except as otherwise
permitted in this Sign Code. The display panel face of light-transmitting signs shall be made of approved plastics as specified in the International Building Code. (Ord. 2585, 2-11-05; Ord. 3056, 02-25-16)

7-9-41: PORTABLE SIGN: One (1) portable freestanding sign is permitted per business, maximum allowable area twelve square feet (12 sq. ft.) per side if the sign is double faced. Such signs must be placed on private property and must conform to location requirements of this Sign Code and the Zoning Code. In addition, all portable signs shall comply with the following requirements:

(A) The maximum height shall not exceed six feet (6’), except where the sign is within fifteen feet (15’) of the public right-of-way the maximum height shall not exceed three feet (3’).

(B) All signs shall be located in such a way that sight clearance is not impeded for motorists or pedestrians, as set forth in the Zoning Code.

(C) All signs shall be properly maintained by the business owner or proprietor.

(D) All signs and their internal components shall conform to the standards of Underwriter's Laboratories (or other testing laboratories approved by the Community Development Services Department) for the conditions of use involved.

(E) All signs shall be firmly mounted to the building or securely to the ground to avoid hazards associated with movement of any kind.

(F) Permits for placement of such signs shall be the responsibility of the sign owner. Permit applications shall include a site plan and wiring plan.

(G) Properties zoned R3A, PB, R&D, and PT shall be allowed a portable sign in accordance with the standards outlined in this Section when located adjacent to 17th Street, Channing Way, Broadway Avenue, Hitt Road, Sunnyside Road, Woodruff Avenue, Holmes Avenue, or Yellowstone Highway.

(Ord. 3003, 04-23-15; Ord. 3056, 02-25-16; Ord. 3181, 04012-18; Ord. 3207, 09-08-18)

7-9-42: REVOLVING POLE SIGN: One horizontal revolving interior illuminated non-flashing pole sign, per business shall be permitted provided said sign conforms to all other provisions of this Sign Code relating to a non-rotating pole sign and does not exceed ten (10) RPM. (Ord. 3056, 02-25-16)

7-9-43: ELECTRONIC MESSAGE CENTER SIGNS AND CHANGEABLE COPY PANELS: Electronic message center signs and changeable copy signs shall be permitted within an on-premise freestanding pole or wall sign in commercial zones, except as provided in this Sign Code. Electronic message center signs shall not be permitted in the downtown area bounded on the north by and including G Street, on the west by and including Memorial Drive, on the east by the extended north-south alleyway located between Yellowstone Highway and Shoup Avenue, and on the south by and including Broadway.
(A) The sign copy area of an electronic message center sign and changeable copy sign shall be counted in the permissible wall or freestanding pole sign copy area. The face area of such sign shall not exceed seventy-five percent (75%) of the applicable total allowable sign or two hundred and fifty square feet (250 sq. ft.), whichever is less, except that signs which are part of a master planned development sign and within six hundred and sixty (660') of I-15 or US Hwy 20 right-of-way shall not exceed seventy-five percent (75%) of the total allowable sign area.

(B) The design and construction of electronic message centers shall be integrated into the architecture of the on-site buildings by the use of similar construction materials and colors as used in the building(s).

(C) The displays on copy areas of electronic message center signs shall be limited to static displays or messages that appear or disappear from the display through dissolve, fade, or instantaneous modes but which may otherwise not have movement, appearance or optical illusion of movement.

(D) Each message on the sign must be displayed for a minimum of six (6) seconds.

(E) Each message transition must be accomplished within 0.5 second.

(F) Each electronic message center shall be equipped with a photocell dimmer to automatically dim with changes in ambient light. When requesting a permit for an electronic message center, the applicant shall submit documentation certifying the sign is equipped with a photocell dimmer and the dimmer shall be used at all times the sign is in operation.

(G) The night-time illumination of electronic message centers shall conform to the following criteria. The difference between off and solid-message measurements of an electronic message center shall not exceed 0.3 footcandles at night, applicable one-half (1/2) hour after sunset. The illuminance of an electronic message center shall be measured with an illuminance meter set to measure footcandles accurate to at least two (2) decimals. Illuminance shall be measured with the sign off, and again with the sign displaying a white image, for a full color-capable sign, or a solid message for a single-color sign. All measurements shall be taken perpendicular to the face of the electronic message center at the distance determined by the total square footage of the sign as set forth in the following table:

<table>
<thead>
<tr>
<th>Area of Sign in sq. ft.</th>
<th>Measurement Distance in ft.</th>
<th>Area of Sign in sq. ft.</th>
<th>Measurement Distance in ft.</th>
</tr>
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<tbody>
<tr>
<td>10</td>
<td>32</td>
<td>90</td>
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<td>140</td>
<td>118</td>
</tr>
<tr>
<td>45</td>
<td>67</td>
<td>150</td>
<td>122</td>
</tr>
</tbody>
</table>
For signs with an area in square feet other than those specifically listed in the table the measurement distance may be calculated with the following formula:  
\[ \text{Measurement Distance} = \sqrt{\text{Area of Sign sq. ft.} \times 100} \]

(H) Prior to the issuance of a permit, the applicant shall provide written certification from the sign manufacturer that the night-time illuminance has been factory pre-set not to exceed the allowed footcandles and is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the Director of the Community Development Services Department. The applicant shall also sign documentation provided by the Community Development Services Department stating he/she has read and agrees to the standards set forth in this section.

(I) One electronic message center sign or changeable copy sign shall be allowed per sign structure.

(J) Electronic message signs and changeable copy signs shall be permitted as an on-premise freestanding pole or wall sign in an R-3A, PB, R&D and PT zone only when such sign meets the following standards:

1. The sign is placed within the front setback adjacent to 17th Street, Broadway Avenue, Channing Way, Hitt Road, Sunnyside Road, Woodruff Avenue, or Yellowstone Highway;
2. The sign is at least one hundred feet (100’) from the nearest single-family residential zone;
3. The sign is incorporated into a minimum landscaped area of seven feet (7’) by ten feet (10’);
4. The sign does not exceed thirty percent (30%) of the total allowable sign area, except that such sign may be at least thirty-two (32) square feet in area; and,
5. The sign complies with the standards in Sections 7-9-43.B through I of this Sign Code.

(K) Electronic message signs shall be permitted as school signs when approved by the Planning and Zoning Commission as a Conditional Use Permit and according to the following standards:

1. The hours of operation shall be limited to the hours of 7:00 a.m. to 7:00 p.m. local time. The hours may be extended to 10:00 p.m. local time on Fridays and Saturdays at junior high and high schools.
(2) The sign shall be placed on the wall of the school unless the sign is to be located adjacent to an arterial street.

(3) The sign complies with the standards in Sections 7-9-43.B through I of this Sign Code.

(4) The size of the sign copy area shall not exceed twenty-four square feet (24 sq. ft.) and shall count towards the total permissible sign copy area.

(5) The sign shall be designed to have a maximum viewing range of three hundred (300) feet.

(6) The Planning and Zoning Commission may modify the above standards where necessary to minimize adverse effects on adjoining residential uses or where necessary to assure visibility to students and parents on and immediately adjacent to the school entrance or parking areas.

(L) Electronic message signs shall be permitted as part of an on-premise freestanding master planned development sign when the sign complies with the standards in Sections 7-9-43.A through I and 7-9-48 of this Sign Code.

(M) Electronic message signs shall be permitted as part of on-premise freestanding signs for planned unit developments when approved by the Planning and Zoning Commission as a Conditional Use Permit. The application submitted for a Conditional Use Permit, in addition to other materials and information requested by the Planning and Zoning Commission, shall include the following:

(1) A plan for the development indicating the type and size of signs proposed for each lot and building;

(2) A statement delineating which lots will be advertising on the electronic message sign; and,

(3) Evidence of continuing unified management of the development. Such evidence may include lease agreement, private covenants recorded against the property, or other documentation as approved by the Director of the Community Development Services Department.

To issue a Conditional Use Permit, the Planning and Zoning Commission shall make the following findings:

(1) The electronic message sign shall be located adjacent to an arterial street;

(2) Only one electronic message sign shall be permitted per arterial street frontage;

(3) The electronic message sign shall comply with Section 7-9-38 of this Sign Code. When the arterial street frontage of the planned unit development or unified development is divided by other public streets, signs for individual businesses may be permitted.
Distances between these individual signs, the design of the signs, their identification on the sign plan required above, and the need for individual business identification shall be considered in the approval of these signs.

(4) The calculation of the permitted size of the electronic message sign shall be based on the nearest building within the development and shall be calculated in accordance with Section 7-9-43.A. of this Sign Code.

(5) The electronic message sign shall comply with the requirements specified in Sections 7-9-43.A through I of this Sign Code.

(6) The location of the design of the electronic message sign shall convey its connection to the development. Factors to be considered shall include but not be limited to:

(a) The location of the sign at the entryway to the development,

(b) The location of the sign within the common landscape features,

(c) The visibility of the development from the sign location,

(d) The use of materials and colors characterizing the remainder of the development.

(7) The electronic message sign shall not blanket or reduce visibility of other signs within the development.

(Ord. 3056, 02-25-16; Ord. 3181, 04012-18; Ord. 3207, 09-08-18; Ord. 3208, 09-08-18)

7-9-44: SIGN BACKGROUND: In computing the area of sign background, only the face or faces which can be seen from any one direction at one time shall be counted. (Ord. 3056, 02-25-16)

7-9-45: DESIGN:

(A) Signs and sign structures shall be designed and constructed to resist wind and seismic forces as specified in this section. All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such manner as not to overstress any of the elements thereof. The overturning moment produced from lateral forces shall in no case exceed two-thirds of the dead-load resisting moment. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building. The weight of earth superimposed over footings may be used in determining the dead-load resisting moment. Such earth shall be carefully placed and thoroughly compacted.

(B) Signs and sign structures shall be designed and constructed to resist wind forces as specified in the most current City-adopted edition of the International Building Code thirty feet (30') above ground with adjustment in pressure for height as outlined in the International Building Code and seismic design category "D."

CITY CODE OF THE CITY OF IDAHO FALLS 344
(C) Design and construction with plastic material shall be in accordance with the most current City-adopted edition of the International Building Code.

(Ord. 2585, 2-11-05; Ord. 3056, 02-25-16)

7-9-46: CONSTRUCTION: The supports for all sign structures shall be placed in or upon private property and shall be built, constructed and erected in conformance with the requirements of the most current City-adopted edition of the International Building Code. An inspection of forms and footings shall be called for before any concrete is poured whenever this manner of construction is applicable. The sign contractor must call for an inspection when a sign has been installed. (Ord. 3056, 02-25-16)

7-9-47: PROJECTION AND CLEARANCE:

(A) All signs shall conform to the clearance and projection requirements of this Sign Code.

(B) Signs shall be located not less than ten feet (10’) horizontally or twelve feet (12’) vertically from overhead electrical conductors which are energized in excess of seven hundred and fifty (750) volts. The design, installation, maintenance, and removal of signs shall be in accordance with the Idaho Code. The term “overhead conductors” as used in this Section means any electrical conductor, either bare or insulated, installed above the ground except such conductors which are enclosed in rigid conduit or other material covering of equal strength.

(C) No sign or sign structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit, or standpipe.

(D) In all commercial zones, wall mounted signs within five feet (5’) of an opening in an exterior wall shall be constructed of non-combustible material or most current City-adopted edition of the International Building Code approved plastics, when mounted against a non-combustible wall.

(E) No sign or sign structure shall project into any public alley. Projection into a private alley or drive shall not be allowed below a height of fourteen feet (14’) above grade. (Ord. 3056, 02-25-16)

(F) Projection signs and awning signs in the CC zone shall adhere to the following regulations:

(1) The bottom of the sign shall not be higher than twenty feet (20’) or lower than eight feet (8’) from grade;

(2) The sign may project five feet (5’) over the public sidewalk or within two feet (2’) of the curb, whichever is less. (Ord. 3207, 09-08-18)

7-9-48: MASTER PLANNED DEVELOPMENT SIGNS:

(A) Master Planned Development signs shall be permitted by the Community Development Services Director as an administrative Conditional Use Permit and only where the Director finds the following conditions:
(1) The development shall include twenty five (25) or more contiguous acres of commercially zoned property;

(2) The development shall be under unified ownership, management or control. Evidence of continuing unified management may include lease agreements, private covenants recorded against the property, or other documentation as approved by the Director of the Community Development Services Department; and

(3) The area within the development shall be planned and designed as one development demonstrated by a Master Land Use Plan approved at the time of annexation or platting, defined architectural, landscaping and signage standards, and a master signage plan for the area;

(B) Master Planned Development signs shall be considered an on-premise sign, common to all properties within the development and may be located on any lot or common area within the development according to the following standards:

(1) The sign shall be located adjacent to an arterial street;

(2) Only one (1) sign shall be permitted per arterial street frontage within the development;

(3) A sign of no greater than six hundred square feet (600 sq. ft.) and sixty feet (60’) in height in commercial zones, except that signs within six hundred and sixty feet (660’) of I-15 or US Hwy 20 right-of-way shall not exceed eight hundred square feet (800 sq. ft.) and eighty feet (80’) in height;

(4) The design and construction of sign shall be integrated into the architecture of the development by the use of similar construction materials and colors;

(5) The sign is incorporated into a minimum landscaped area of ten feet (10’) by ten feet (10’);

(6) The sign shall be consistent with an approved signage plan for the development indicating the type and size of signs proposed for each lot and building site;

(7) The location of the design of the sign shall convey its connection to the development. Factors to be considered shall include but not be limited to:

   (a) The location of the sign at the entryway to the development,

   (b) The location of the sign within common landscape features,

   (c) The visibility of the development from the sign location,

(8) Electronic message signs shall comply with the requirements of Sections 7-9-43.A through I of this Sign Code.
BILLBOARD SIGNS:

(A) No billboard sign may be installed within the following locations:

1. Within a seven hundred and fifty foot (750') radius from any other billboard sign.
2. Within seven hundred and fifty feet (750’) of the nearest boundary of the Snake River, the Riverwalk, and land owned by the City of Idaho Falls contiguous with the Snake River.
3. Within seven hundred and fifty feet (750’) from properties or districts listed on the National Register of Historic Places.
4. Within five hundred feet (500’) from any residential zone.

(C) Stacking or side-by-side billboards are not allowed.

(D) Billboards shall only be used for off-premise signs.

(E) LED and Tri-vision billboards must adhere to the following regulations:

1. Billboards shall not include any illumination or image which moves continuously, appears to be in motion, or has any moving or animated parts, or video displays, or broadcasts. No such sign shall include any illumination which is flashing or moving.
2. The message or image must remain static for a minimum of eight (8) seconds.
3. An automated change of message or image must be accomplished within two (2) seconds or less and contain a default design that will freeze the sign face in one (1) position should a malfunction occur.
4. Each electronic message center shall be equipped with a photocell dimmer to automatically dim with changes in ambient light. When requesting a permit for an electronic message center, the applicant shall submit documentation certifying the sign is equipped with a photocell dimmer and the dimmer shall be used at all times the sign is in operation.
5. The night-time illumination of LED billboards shall conform to the criteria in this section. The difference between off and solid-message measurements of an LED billboard shall not exceed 0.3 footcandles at night, applicable one-half (1/2) hour after sunset. The illuminance of an LED billboard shall be measured with an illuminance meter set to measure footcandles accurate to at least two decimals. Illuminance shall be measured with the sign off, and again with the sign displaying a white image for a full color-capable sign or a solid message for a single-color sign. All measurements shall be taken perpendicular to the face of the LED billboard at the distance determined by the total square footage of the sign as set forth in the following table:
Table 1: Low Density Residential Zones

<table>
<thead>
<tr>
<th>Area of Sign in sq. ft.</th>
<th>Measurement Distance in ft.</th>
</tr>
</thead>
<tbody>
<tr>
<td>200</td>
<td>141</td>
</tr>
<tr>
<td>220</td>
<td>148</td>
</tr>
<tr>
<td>240</td>
<td>155</td>
</tr>
<tr>
<td>260</td>
<td>161</td>
</tr>
<tr>
<td>280</td>
<td>167</td>
</tr>
<tr>
<td>300</td>
<td>173</td>
</tr>
<tr>
<td>480</td>
<td>219</td>
</tr>
<tr>
<td>672</td>
<td>259</td>
</tr>
</tbody>
</table>

For signs with an area in square feet other than those specifically listed in the table the measurement distance may be calculated with the following formula: \( \text{Measurement Distance} = \sqrt{\text{Area of Sign} \times 100} \)

(Ord. 2814, 5-28-09; Ord. 2817, 7-23-09; Ord. 3056, 02-25-16; Ord. 3207, 09-08-18)
<table>
<thead>
<tr>
<th></th>
<th>City 1</th>
<th>City 2</th>
<th>City 3</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ROOF</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>WINDOW</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>SHOPPING CENTER SIGNS</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>ELECTRONIC MESSAGE CENTER</strong></td>
<td>Schools only with conditional use permit</td>
<td>Schools only with conditional use permit</td>
<td>Schools only with conditional use permit</td>
</tr>
</tbody>
</table>
Table 2: Medium Density Residential Zones

<table>
<thead>
<tr>
<th>PORTABLE FREETANDING</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ENTRANCE SIGNS (1 per entrance)</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Top of sign maximum 6’ above grade.</td>
<td>Top of sign maximum 6’ above grade.</td>
<td>Top of sign maximum 6’ above grade.</td>
<td></td>
</tr>
<tr>
<td>Commercial Uses:</td>
<td>Commercial Uses:</td>
<td>Commercial Uses:</td>
<td></td>
</tr>
<tr>
<td>-9 sq. ft. maximum</td>
<td>-9 sq. ft. maximum</td>
<td>-9 sq. ft. maximum</td>
<td></td>
</tr>
<tr>
<td>Top of sign maximum 3’ above grade.</td>
<td>Top of sign maximum 3’ above grade.</td>
<td>Top of sign maximum 3’ above grade.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BILLBOARDS</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>FREESTANDING SIGNS (1 per street frontage)</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Uses:</td>
<td>Commercial Uses:</td>
<td>Not allowed</td>
<td></td>
</tr>
<tr>
<td>1 sq. ft. per lineal ft. of building frontage.</td>
<td>1 sq. ft. per lineal ft. of building frontage.</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>POLE SIGN:</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>MONUMENT SIGN</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>-64 sq. ft. maximum</td>
<td>-64 sq. ft. maximum</td>
<td>Not allowed</td>
<td></td>
</tr>
<tr>
<td>Top of sign maximum 6’ above grade.</td>
<td>Top of sign maximum 6’ above grade.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>REVOLVING INTERIOR ILLUMINATION, NON-FLASHING</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>BUILDING SIGNS (The allowed square footage can be made up of any combination of the following sign types.)</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial Uses:</td>
<td>Commercial Uses:</td>
<td>Not allowed</td>
<td></td>
</tr>
<tr>
<td>Not to exceed ten (10) percent of the total square footage of the building elevation.</td>
<td>Not to exceed ten (10) percent of the total square footage of the building elevation.</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WALL</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not higher than top of building or parapet wall.</td>
<td>Not higher than top of building or parapet wall.</td>
<td>Not allowed</td>
<td></td>
</tr>
<tr>
<td>Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PROJECTING</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AWNING SIGN</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ROOF</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>WINDOW</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SHOPPING CENTER SIGNS</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>ELECTRONIC MESSAGE CENTER</th>
<th>R2</th>
<th>TN</th>
<th>RMH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Schools only with conditional use permit</td>
<td>Schools only with conditional use permit</td>
<td>Schools only with conditional use permit</td>
<td></td>
</tr>
</tbody>
</table>
# Table 3: High Density Residential Zones

<table>
<thead>
<tr>
<th></th>
<th>R3</th>
<th>R3A</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PORTABLE FREESTANDING</strong></td>
<td>Not allowed</td>
<td>Not allowed, except properties that fall under the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>requirement of section 7-9-41.G</td>
</tr>
<tr>
<td><strong>ENTRANCE SIGNS</strong>&lt;br&gt;(1 per entrance)</td>
<td>Residential Subdivision Entrances:&lt;br&gt;-32 sq. ft. maximum.&lt;br&gt;-Top of sign maximum 6’ above grade.</td>
<td>Residential Subdivision Entrances:&lt;br&gt;-32 sq. ft. maximum.&lt;br&gt;-Top of sign maximum 6’ above grade. Commercial Uses:&lt;br&gt;-9 sq. ft. maximum&lt;br&gt;-Top of sign maximum 3’ above grade.</td>
</tr>
<tr>
<td><strong>BILLBOARDS</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>FREESTANDING SIGNS</strong>&lt;br&gt;(1 per street frontage)</td>
<td>Not allowed</td>
<td>Commercial Uses:&lt;br&gt;1 sq. ft. per lineal ft. of building frontage.</td>
</tr>
<tr>
<td><strong>POLE SIGN:</strong></td>
<td>Not allowed</td>
<td>-Not to exceed two-hundred (200) square feet maximum.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Top of sign maximum 15’ above grade.</td>
</tr>
<tr>
<td><strong>MONUMENT SIGN</strong></td>
<td>Not allowed</td>
<td>Not to exceed two-hundred (200) square feet maximum and not to exceed fifteen (15) feet above grade to top of sign</td>
</tr>
<tr>
<td><strong>REVOLVING INTERIOR ILLUMINATION, NON-FLASHING</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>BUILDING SIGNS</strong>&lt;br&gt;(The allowed square footage can be made up of any combination of the following sign types.)</td>
<td>Not allowed</td>
<td>Commercial Uses:&lt;br&gt;Not to exceed ten (10) percent of the total square footage of the building elevation.</td>
</tr>
<tr>
<td><strong>WALL</strong></td>
<td>Not allowed</td>
<td>-No higher than top of building or parapet wall.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>-Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
</tr>
<tr>
<td><strong>PROJECTING</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>AWNING SIGN</strong></td>
<td>Not allowed</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
</tr>
<tr>
<td><strong>ROOF</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>WINDOW</strong></td>
<td>Not allowed</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
</tr>
<tr>
<td><strong>SHOPPING CENTER SIGNS</strong></td>
<td>Not allowed</td>
<td>See section 7-9-38</td>
</tr>
<tr>
<td><strong>ELECTRONIC MESSAGE CENTER</strong></td>
<td>Schools only with conditional use permit</td>
<td>See section 7-9-43</td>
</tr>
</tbody>
</table>
### Table 4: Commercial Zones

<table>
<thead>
<tr>
<th></th>
<th>PB</th>
<th>LC</th>
<th>CC</th>
<th>HC</th>
<th>PT</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PORTABLE FREESTANDING</strong></td>
<td>Not allowed, except properties that fall under the requirement of Section 7-9-41.G</td>
<td>-One per business. -12 sq. ft. maximum. -6' maximum height -3' maximum height in front setback.</td>
<td>-One per business. -12 sq. ft. maximum. -6' maximum height -3' maximum height in front setback.</td>
<td>-One per business. -12 sq. ft. maximum. -6' maximum height -3' maximum height in front setback.</td>
<td>Not allowed, except properties that fall under the requirement of Section 7-9-41.G</td>
</tr>
<tr>
<td><strong>ENTRANCE SIGNS</strong> (1 per entrance)</td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
<td>-300 sq. ft. maximum -Within 100 feet of I-15: 672 sq. ft. maximum -LED and tri-vision billboards: 300 sq. ft. in all locations except 672 sq. ft. within 100 feet of I-15. -45 ft. from grade to top of sign -See Section 7-9-49 for additional restrictions.</td>
</tr>
<tr>
<td><strong>BILLBOARDS</strong></td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>FREESTANDING SIGNS</strong> (1 per street frontage)</td>
<td>1 sq. ft. per linear ft. of building frontage.</td>
<td>1 sq. ft. per linear ft. of building frontage.</td>
<td>1 sq. ft. per linear ft. of building frontage.</td>
<td>1 sq. ft. per linear ft. of building frontage.</td>
<td>1 sq. ft. per linear ft. of building frontage.</td>
</tr>
<tr>
<td><strong>POLE SIGN</strong></td>
<td>-Not to exceed two-hundred (200) square feet maximum. -Top of sign maximum 15' above grade.</td>
<td>-Not to exceed six-hundred (600) square feet maximum. -If the building frontage is less than one hundred feet (100'), then the maximum sign area shall be one hundred (100) square feet. -Top of sign maximum 60' above grade.</td>
<td>-Not to exceed six-hundred (600) square feet maximum. -If the building frontage is less than one hundred feet (100'), then the maximum sign area shall be one hundred (100) square feet. -Top of sign maximum 60' above grade.</td>
<td>-Not to exceed six-hundred (600) square feet maximum. -If the building frontage is less than one hundred feet (100'), then the maximum sign area shall be one hundred (100) square feet. -Top of sign maximum 60' above grade.</td>
<td>-Not to exceed two-hundred (200) square feet maximum. -Top of sign maximum 20' above grade.</td>
</tr>
<tr>
<td><strong>MONUMENT SIGN</strong></td>
<td>Same as Pole Sign</td>
<td>Same as Pole Sign</td>
<td>Same as Pole Sign</td>
<td>Same as Pole Sign</td>
<td>Same as Pole Sign</td>
</tr>
<tr>
<td><strong>REVOLVING INTERIOR ILLUMINATION, NON-FLASHING</strong></td>
<td>Not allowed</td>
<td>-Visible portion area, 400 sq. ft. maximum. -Top of sign maximum 60’ above grade -Light globes not to exceed 40 watts -10 RPM maximum</td>
<td>-Visible portion area, 400 sq. ft. maximum. -Top of sign maximum 60’ above grade -Light globes not to exceed 40 watts -10 RPM maximum</td>
<td>-Visible portion area, 400 sq. ft. maximum. -Top of sign maximum 60’ above grade -Light globes not to exceed 40 watts -10 RPM maximum</td>
<td>Not allowed</td>
</tr>
<tr>
<td>BUILDING SIGNS</td>
<td>PB</td>
<td>LC</td>
<td>CC</td>
<td>HC</td>
<td>PT</td>
</tr>
<tr>
<td>---------------</td>
<td>----</td>
<td>----</td>
<td>----</td>
<td>----</td>
<td>----</td>
</tr>
<tr>
<td><strong>AWNING SIGN</strong></td>
<td>-No higher than top of building or parapet wall.</td>
<td>-No higher than top of building or parapet wall.</td>
<td>-No higher than top of building or parapet wall.</td>
<td>-No higher than top of building or parapet wall.</td>
<td>-No higher than top of building or parapet wall.</td>
</tr>
<tr>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
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<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td></td>
</tr>
<tr>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural members enclosed.</td>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural members enclosed.</td>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural members enclosed.</td>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural members enclosed.</td>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural members enclosed.</td>
<td></td>
</tr>
<tr>
<td><strong>PROJECTING</strong></td>
<td>Not allowed</td>
<td>-40 sq. ft. maximum. -No higher than top of the building or parapet. -See 7-9-47.F for additional restrictions.</td>
<td>-40 sq. ft. maximum. -No higher than top of the building or parapet. -See 7-9-47.F for additional restrictions.</td>
<td>Not allowed</td>
<td>Not allowed</td>
</tr>
<tr>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
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<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td></td>
</tr>
<tr>
<td><strong>WALL</strong></td>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
<td>Not to exceed twenty (20) percent of the total area of the building front.</td>
<td>Not to exceed twenty (20) percent of the total area of the building front.</td>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
</tr>
<tr>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td></td>
</tr>
<tr>
<td><strong>ROOF</strong></td>
<td>Not allowed</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
<td>Not to exceed twenty (20) percent of the total area of the building front.</td>
<td>Not to exceed twenty (20) percent of the total area of the building front.</td>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
<td></td>
</tr>
<tr>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td></td>
</tr>
<tr>
<td><strong>WINDOW</strong></td>
<td>See Section 7-9-38</td>
<td>See Section 7-9-38</td>
<td>See Section 7-9-38</td>
<td>See Section 7-9-38</td>
<td>See Section 7-9-38</td>
</tr>
<tr>
<td>Shopping Center Signs</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
</tr>
<tr>
<td>Electronic Message Center</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
</tr>
</tbody>
</table>
## Table 7: Industrial and Special Purpose Zones

<table>
<thead>
<tr>
<th>Combination</th>
<th>LM</th>
<th>I&amp;M-I</th>
<th>R&amp;D</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PORTABLE FREESTANDING</strong></td>
<td>-One per business. -12 sq. ft. maximum. -6' maximum height. -3' maximum height in front setback.</td>
<td>-One per business. -12 sq. ft. maximum. -6' maximum height. -3' maximum height in front setback.</td>
<td>Not allowed, except properties that fall under the requirement of Section 7-9-41.G</td>
</tr>
<tr>
<td><strong>ENTRANCE SIGNS</strong></td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
<td>-9 sq. ft. maximum -Top of sign maximum 3' above grade.</td>
</tr>
<tr>
<td><strong>BILLBOARDS</strong></td>
<td>-480 sq. ft. maximum -Within 100 of I-15: 672 sq. ft. maximum -LED and tri-vision billboards: 300 sq. ft. in all locations except 672 sq. ft. within 100 feet of I-15, -45 ft. from grade to top of sign. -See Section 7-9-49 for additional restrictions.</td>
<td>-480 sq. ft. maximum -Within 100 of I-15: 672 sq. ft. maximum -LED and tri-vision billboards: 300 sq. ft. in all locations except 672 sq. ft. within 100 feet of I-15, -45 ft. from grade to top of sign. -See Section 7-9-49 for additional restrictions.</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>FREESTANDING SIGNS</strong></td>
<td>1 sq. ft. per lineal ft. of building frontage.</td>
<td>1 sq. ft. per lineal ft. of building frontage.</td>
<td>1 sq. ft. per lineal ft. of building frontage.</td>
</tr>
<tr>
<td><strong>POLE SIGN</strong></td>
<td>-Not to exceed six-hundred (600) square feet maximum. -If the building frontage is less than one hundred feet (100'), then the maximum sign area shall be one hundred (100) square feet. -Top of sign maximum 60' above grade.</td>
<td>-Not to exceed six-hundred (600) square feet maximum. -If the building frontage is less than one hundred feet (100'), then the maximum sign area shall be one hundred (100) square feet. -Top of sign maximum 60' above grade.</td>
<td>-Not to exceed two-hundred (200) square feet maximum. -Top of sign maximum 15' above grade.</td>
</tr>
<tr>
<td><strong>MONUMENT SIGN</strong></td>
<td>Same as Pole Sign</td>
<td>Same as Pole Sign</td>
<td>Same as Pole Sign</td>
</tr>
<tr>
<td><strong>REVOLVING INTERIOR ILLUMINATION, NON-FLASHING</strong></td>
<td>-Visible portion area, 400 sq. ft. maximum. -Top of sign maximum 60’ above grade -Light globes not to exceed 40 watts -10 RPM maximum</td>
<td>-Visible portion area, 400 sq. ft. maximum. -Top of sign maximum 60’ above grade -Light globes not to exceed 40 watts -10 RPM maximum</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>BUILDING SIGNS</strong></td>
<td>Not to exceed twenty (20) percent of the total area of the building front.</td>
<td>Not to exceed twenty (20) percent of the total area of the building front.</td>
<td>Not to exceed ten (10) percent of the total area of the building front.</td>
</tr>
<tr>
<td><strong>WALL</strong></td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
<td>-No higher than top of building or parapet wall. -Cannot project more than 18” beyond building wall or facade. Must be parallel to wall.</td>
</tr>
<tr>
<td><strong>PROJECTING</strong></td>
<td>-40 sq. ft. maximum. -No higher than top of the building or parapet.</td>
<td>-40 sq. ft. maximum. -No higher than top of the building or parapet.</td>
<td>Not allowed</td>
</tr>
<tr>
<td><strong>AWNING SIGN</strong></td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
<td>Canvas or nylon awning that includes the name of the business or its logo, provided the lettering or logo occupies no more than twenty (20) percent of the surface area of the awning.</td>
</tr>
<tr>
<td><strong>ROOF</strong></td>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural</td>
<td>-One per street frontage. -Maximum area 200 sq. ft. per visible area. -10 ft. above roof maximum. -Must be designed as part of the building with all structural</td>
<td>Not allowed</td>
</tr>
<tr>
<td></td>
<td>LM</td>
<td>I&amp;M-1</td>
<td>R&amp;D</td>
</tr>
<tr>
<td>----------------------</td>
<td>----------------------------------------------</td>
<td>--------------------------------------------</td>
<td>-------------------------------------------</td>
</tr>
<tr>
<td>...</td>
<td>members enclosed.</td>
<td>members enclosed.</td>
<td></td>
</tr>
<tr>
<td>WINDOW</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
<td>No more than 1/3 of the transparency that contains the sign</td>
</tr>
<tr>
<td>ELECTRONIC MESSAGE CENTER</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
<td>See Section 7-9-43</td>
</tr>
<tr>
<td>SHOPPING CENTER SIGNS</td>
<td>See Section 7-9-38</td>
<td>See Section 7-9-38</td>
<td>See Section 7-9-38</td>
</tr>
</tbody>
</table>
CHAPTER 10
INTERNATIONAL FIRE CODE

SECTION:

7-10-1: International Fire Code Adopted
7-10-2: Definitions
7-10-3: Amendments and Additions to the International Fire Code:
7-10-4: Pending Legal Actions

7-10-1: INTERNATIONAL FIRE CODE ADOPTED

(A) Fire Code Adopted: The International Fire Code, 2015 Edition, as published by the International Code Council, Inc., including all Appendices, are hereby adopted as an official fire code of the City, save and except such portions as are hereinafter deleted, modified or amended by the provisions of this Chapter.

(B) Code on File: One (1) copy of the International Fire Code, 2015 Edition, duly certified by the Clerk shall be retained by the City Clerk for use and examination by the public.

(C) Any reference in the City Code to the International Fire Code shall refer to the most recent version of the International Fire Code adopted by the City, as provided for in this Chapter.

7-10-2: DEFINITIONS: Whenever found in the International Code, the following words shall have the meanings ascribed to them herein:

Fire Code Official: The Fire Marshal

Corporate Counsel: The City Attorney for the City of Idaho Falls, Idaho

Jurisdiction: The City of Idaho Falls, Idaho

Life Safety System: Automatic fire extinguishing system, portable fire extinguishers, fire alarm and detection systems, fire pumps, and related equipment.

Life Safety License: Required license issued by the Fire Code Official intended to ensure that the licensee is qualified to install, modify, service, or maintain any automatic fire extinguishing system, portable fire extinguishers, fire alarm and detection system, or related equipment.

(Ord. 3252, 05-13-19)

7-10-3: AMENDMENTS AND ADDITIONS TO THE INTERNATIONAL FIRE CODE:

(A). Subsection of 105.1.2 Types of permits shall be adopted as follows:

Permit Fees:
105.1.2.1 Each operational permit fee shall be in an amount set from time to time by Resolution of the Council;  
105.1.2.2 Each construction permit fee shall be in an amount set from time to time by Resolution of the Council; and,

105.1.3 Where multiple permits are required for the same location, the Fire Code Official may authorize to consolidate such permits into one permit.

113.3 Failure to obtain any required fire code permit, prior to engaging in activities, operations, practices or functions, as set forth in the International Fire Code, shall constitute a violation of the code. The activity, operation, or practice will be issued a stop work order until a permit has been obtained and a double permit fee collected.

(B) Subsection 105.7.1 Automatic fire-extinguishing systems shall be amended to read as follows:

A construction permit and Life Safety License is required for the installation of or modification to an automatic fire extinguishing system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

1. Contractors performing maintenance on automatic fire-extinguishing systems shall obtain a Life Safety License prior to commencing work and shall provide a copy of the maintenance report to the Fire Code Official at the completion of the work performed.

2. The Fire Code Official is authorized to not require a plan review fee for modifications to automatic fire-extinguishing systems where ten (10) or fewer sprinkler heads are affected in the scope of work. A Life Safety License and permit are required to be submitted to the Fire Code Official for review prior to the start of the project and a record of completion shall be permitted to the Fire Code Official at the completion of the project.

(C) Subsection 105.7.6 Fire alarm and detection systems and related equipment shall be amended to read as follows:

A construction permit and Life Safety License is required for installation of or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

1. Contractors performing maintenance on fire alarm and detection systems shall obtain a Life Safety License prior to commencing work and shall provide a copy of the maintenance report to the Fire Code Official at the completion of the work performed.

(D) Subsection 105.7.7 Fire pumps and related equipment shall be amended to read as follows:
A construction permit and Life Safety License is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers, and generators. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

1. Contractors performing maintenance on fire pumps and related equipment shall obtain a Life Safety License prior to commencing work and shall provide a copy of the maintenance report to the Fire Code Official at the completion of the work performed.

(E) Subsection 109.4 Violation penalties shall be amended to read as follows:

Persons or entities who violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under the provisions of this code, as amended, shall be guilty of a misdemeanor. Each twenty-four (24) hour period that a violation continues after due notice has been served shall be deemed a separate offense.

(F) Subsection 111.4 Failure to comply shall be amended to read as follows:

Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to pay a fine in an amount set from time to time by Resolution of the Council.

(G) Subsection 113.6 Life Safety License required shall be adopted as follows:

Any person or entity shall obtain a Life Safety License from the Fire Code Official prior to performing any installation, modification, inspection, testing, or maintenance on a Life Safety System in the City of Idaho Falls. Life Safety Licenses shall be valid for the calendar year issued. The fee for a Life Safety License shall be in an amount set from time to time by Resolution of the Council. All Life Safety Licenses shall be non-transferrable.

(H) Subsection 113.7 Penalties for violation of license requirement shall be adopted as follows:

Any person or entity who violates any rules or regulations as written on the license application, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than three-hundred dollars ($300). Each twenty-four (24) hour period that a violation continues after due notice has been served shall be deemed a separate offense.

(I) Subsection 113.8 Payment of permits, licenses and fees shall be adopted as follows:

All costs, fees, and payments associated with any permit or license provided for in the Fire Code shall be paid to the City of Idaho Falls City Treasurer’s Office or as otherwise specified by the Fire Department.
Subsection 113.9 Fees shall be adopted as follows:

113.9.1 Structural plan review fees. Structural plan review fees will be charged at a rate in an amount set from time to time by Resolution of the Council. Upon request from the Fire Code Official, the City reserves the right to charge additional structural plan review fees for large or complex structural plan submissions.

113.9.2 Fire alarm plan review fees. Fire alarm plan review fees will be charged at a rate in an amount set from time to time by Resolution of the Council. This fee includes plan review and one (1) acceptance test field inspection by fire prevention personnel. An additional fee, in an amount set from time to time by Resolution of Council, will be charged for inspection of fire alarm systems exceeding this amount.

113.9.3 Fire sprinkler system plan review fees. Fire sprinkler system fees will be charged at a flat rate in an amount set from time to time by Resolution of the Council. This fee includes plan review, and one (1) acceptance field inspection. Field inspections are to include fire service underground, rough-in inspection, hydro-test with all heads in place, and final acceptance test of system. An additional fee, in an amount set from time to time by Resolution of Council, will be charged for inspection of fire sprinkler systems exceeding this amount.

113.9.4 Fire pump review fees. Fire pump fees will be in an amount set from time to time by Resolution of the Council. This fee includes plan review and response and acceptance testing of the fire pump.

113.9.5 Alarm response fee. The Fire Code Official is authorized to charge a maximum fee in an amount set from time to time by Resolution of the Council per occurrence for fire apparatus response to Life Safety System activation where the service contractor fails to contact the Fire Code Official and/or Fire Dispatch Center when servicing such systems or excessive responses to the same location. The fee does not apply to a false alarm which is defined as the willful and knowing initiation or transmission of a signal, message or other notification of an even of fire when no such danger exists. The fee, subject to review by the Fire Code Official will apply to nuisance alarms exceeding four (4) responses to the same location within a thirty (30) day period. Nuisance alarms are defined as any alarm caused by mechanical failure, malfunction, improper installation, or lack of proper maintenance, or any alarm activated by a cause that cannot be determined. The fee will be charged to the business owner and/or service contractor after review by the Fire Code Official.

Subsection 5604.1.1 Prohibited storage shall be adopted to read as follows:

The storage of explosives and blasting agents is prohibited within the Corporate Limits of the City of Idaho Falls.

Exception: The Fire Code Official may issue a permit, pursuant to Section 105, to allow the use of explosives and blasting agents within the Corporate Limits of the City of Idaho Falls. Such permit shall prescribe conditions and restrictions for the use of explosives and blasting agents, consistent with this chapter.
Subsection 5704.2.9.6.1 Locations where above-ground tanks are prohibited shall be amended to read as follows:

The storage of Class I and Class II liquids in above-ground tanks outside of buildings is prohibited within the Corporate Limits of the City of Idaho Falls.

Exceptions:

1. The Fire Code Official, with approval of the Fire Chief, may allow protected above-ground tanks at motor vehicle fuel dispensing stations. Protected above-ground tanks may be allowed where underground rock formations or water levels make it extremely difficult or impossible to install underground tanks or underground install is cost prohibitive for limited use fuel dispensing stations. Such tanks shall meet the UL 2085 listing and comply with Sections 2306.2, 3104.17.2, 5704.2.7.3.5, 5704.2.9, and 5704.2.13.2. Each approved tank shall not exceed twelve thousand (12,000) gallons in individual capacity and no more than forty-eight thousand (48,000) gallons in aggregate capacity may be stored in this manner on any one property within the City.

2. The Fire Code Official, with approval of the Fire Chief, may allow the use of temporary above-ground storage tanks at construction sites, earth moving projects or gravel pits. Such tanks shall comply with Sections 3104.17.2, 5704.2.9, and Section 5706 in its entirety.

2.1 The storage of flammable or combustible liquids in above-ground tanks, and the dispensing of combustible liquids into vehicles from above-ground tanks, shall not be permitted in the following zones as defined by the City Zoning Ordinance and located within the current Official Zoning Map: RP, RP-A, R-1, R-2, R-2A, R-3, R-3A, P-B, and RMH.

Subsection 5706.2.4.4 Locations where above-ground tanks are prohibited shall be amended to read as follows:

The limits in which new bulk plants in accordance with Section 5706.2.4.4, where flammable or combustible liquids are received by tank vessels, pipelines, tank cars, or tank vehicles, and are stored in blended in bulk for the purpose of distributing such liquids by tank vessels, pipelines, tank cars, tank vehicles, or containers are prohibited within the Corporate Limits of the City of Idaho Falls.

Section 5806.2 Limitations shall be amended to read as follows:

Storage of flammable cryogenic fluids in stationary containers outside of buildings is prohibited within the Corporate Limits of the City of Idaho Falls.

Section 6104.2.1 Restricted zones shall be adopted as follows:

Storage of liquefied petroleum gas is restricted within all zones in the City, as defined by the City Zoning Ordinance and located within the current City’s Official Zoning Map.
Exception: Storage of liquefied petroleum gas is permitted, consistent with this chapter, within the Industrial and Manufacturing Zones I&M-1 and I&M-2, as defined by the City Zoning Ordinance and located within the current City’s Official Zoning Map.

(Ord. 2964, 8-14-14; Ord. 3252, 05-13-19)

7-10-4: PENDING LEGAL ACTIONS:

That nothing in this Chapter or in the Fire Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 3 of this Chapter; nor shall any just or legal right or remedy or any character be lost, impaired or affected by this Chapter.
CHAPTER 11
INTERNATIONAL ENERGY CONSERVATION CODE

SECTION:

7-11-1: International Energy Conservation Code Adopted
7-11-2: Amendments to the International Energy Conservation Code

7-11-1: INTERNATIONAL ENERGY CONSERVATION CODE ADOPTED:


(B) Code on File: One (1) copy of the International Energy Conservation Code, 2015 Edition, duly certified by the Clerk, shall be retained by the City Clerk for use and examination by the public.

7-11-2: AMENDMENTS TO INTERNATIONAL ENERGY CONSERVATION CODE:

(A) Table R402.1.2 (Table N1102.2.1) shall be amended to read as follows:

Table 402.1.2
Insulation and fenestration Requirements By Component

<table>
<thead>
<tr>
<th>Climate Zone</th>
<th>Fenestration U-Factor</th>
<th>Skylight U-Factor</th>
<th>Glazed Fenestration SHGC</th>
<th>Ceiling R-Value</th>
<th>Wood Frame Wall R-Value</th>
<th>Mass Wall R-Value</th>
<th>Floor R-Value</th>
<th>Basement Wall R-Value</th>
<th>Slab R-Value</th>
<th>Crawlspace Wall R-Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>5 and Marine 4</td>
<td>0.32</td>
<td>0.55</td>
<td>NR</td>
<td>49</td>
<td>20 or 13+5h</td>
<td>13/17</td>
<td>30g</td>
<td>15/19</td>
<td>10, 2</td>
<td>15/19</td>
</tr>
<tr>
<td>6</td>
<td>0.32</td>
<td>0.55</td>
<td>NR</td>
<td>49</td>
<td>22 or 13+10h</td>
<td>15/20</td>
<td>30g</td>
<td>15/19</td>
<td>10, 4</td>
<td>15/19</td>
</tr>
</tbody>
</table>

(B) Section R402.4.4 shall be deleted.

(C) The following section shall be added (N1102.4.1.2):

R402.4.1.2 Visual inspection option. Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table 402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation.

(D) The following section shall be added:

R403.3.5 Building Cavities. Building framing cavities shall not be used as ducts or plenums.

CITY CODE OF THE CITY OF IDAHO FALLS 362
Exception: Building framing cavities used as ducts or plenums shall comply with Section M1601.1.1 (2015 International Residential Code).

(E) Section C405.5.1.1 shall be added to read as follows:

C405.2.1A Screw lamp holders. The wattage shall be the maximum labeled wattage of the luminaire.

Exception: Compact Fluorescent lamps shall use the rated wattage of the lamp and ballast.

(F) Section C408.3.1 shall be amended to read as follows:

C408.3.1 Functional Testing – Prior to passing final inspection, the register design professional or approved agency shall provide evidence that the lighting control systems have been tested to ensure that control hardware and software are calibrated, adjusted, programmed and in proper working condition in accordance with the construction documents and manufacturer’s instructions. Function testing shall be in accordance with Sections C408.3.1.1 and C408.3.1.2 for the applicable control type.
(12-16-10; Ord. 2992, 1-22-15; Ord. 3152, 12-21-2017)
CHAPTER 12
UNIFORM CODE FOR BUILDING CONSERVATION

SECTION:

7-12-1: Uniform Code for Building Conservation

7-12-1: UNIFORM CODE FOR BUILDING CONSERVATION:

(A) Uniform Code for Building Conservation Adopted: The Uniform Code for Building Conservation, 1997 Edition, published by the International Conference of Building Officials, is hereby adopted as an official Code of the City, except the portions deleted, modified or amended by the provisions of this Chapter.

(B) Code on File: Three (3) copies of the Uniform Code for Building Conservation, 1997 Edition, duly certified by the Clerk, shall be retained by the City for use and examination by the public. One (1) copy shall be filed in the office of the City Clerk. Two (2) Copies shall be filed in the office of the Department of Community Development Services.
(Ord. 2376, 7-6-00; Ord. 3003, 04-23-15)
INTERNATIONAL EXISTING BUILDING CODE

SECTION:

7-13-1: International Existing Building Code

7-13-1: INTERNATIONAL EXISTING BUILDING CODE:


(B) Code on file: One (1) copy of the International Existing Building Code (2015 Edition) duly certified by the Clerk, shall be retained by the City Clerk for use and examination by the public. (Ord. 3152, 12-21-2017)
TITLE 8
PUBLIC UTILITIES AND PROPERTY

CHAPTER: SUBJECT:

1 Sewers
2 Airport Regulations and Fees
3 Parks
4 Water Service
5 Electric Service
6 Sanitation Service
7 Public Right of Way Construction
8 Use of Public Sidewalks
9 Trees and Shrubbery
10 Maintenance and Construction of Sidewalks and Curbs
11 Cemetery Regulations
12 Airport Passenger Facility Charges
13 Public Fiber Optic Network
14 Construction Site Erosion Control
CHAPTER 1
SEWERS

SECTION:

8-1-1: Purpose
8-1-2: Definition of Terms
8-1-3: Abbreviations
8-1-4: Administration
8-1-5: Scope of Chapter
8-1-6: Sewage to be Discharged Into Wastewater Treatment System
8-1-7: Storm Water Not Permitted in Sanitary Sewer
8-1-8: Unpolluted Water Discharged to Storm Drain
8-1-9: National Pretreatment Standards: Prohibited Discharges
8-1-10: National Pretreatment Standards: Categorical Standards
8-1-11: State Requirements
8-1-12: Local Limits
8-1-13: Right of Revision
8-1-14: Dilution
8-1-15: Special Agreements
8-1-16: Approval Required for Wastewater
8-1-17: Pretreatment Facilities
8-1-18: Deadlines for Compliance with Applicable Pretreatment Requirements
8-1-19: Additional Pretreatment Measures
8-1-20: Accidental Spill Prevention Plans
8-1-21: Connection to Sanitary Sewer Required
8-1-22: Sewer Service
8-1-23: Sewer Service Connection Fees
8-1-24: Sewer Service Repair
8-1-25: Permit Required to Work on Public Sewer
8-1-26: Notice of Inspection
8-1-27: Right to Revoke Permission
8-1-28: Sewer Construction Specifications
8-1-29: Submission of Information
8-1-30: Injury to Sewerage System Unlawful
8-1-31: State Requirement
8-1-32: Accidental Discharges/Slug Control Plans
8-1-33: Wastewater Discharge Permit Requirements
8-1-34: Wastewater Discharge Permits—Existing SIU's
8-1-35: Wastewater Discharge Permits—New Sources and New User
8-1-36: Wastewater Discharge Permits Extra-Jurisdictional Users
8-1-37: Wastewater Discharge Permit Application Contents
8-1-38: Signatory and Certification Required
8-1-39: Wastewater Discharge Permit Decisions
8-1-40: Wastewater Discharge Permit Contents
8-1-41: Wastewater Discharge Permit Appeals
8-1-42: Wastewater Discharge Permit Duration
8-1-43: Wastewater Discharge Permit Modification
8-1-44: Wastewater Discharge Permit Transfer
8-1-45: Wastewater Discharge Permit Revocation
8-1-46: Wastewater Discharge Permit Reissuance
8-1-47: Final and Initial Compliance Reports
8-1-48: Periodic Compliance Report
8-1-49: Compliance Schedules for Applicable Pretreatment Standards
8-1-50: Notification of Significant Production Changes
8-1-51: Hazardous Waste Notification
8-1-52: Notice of Potential Problems, Including Accidental Spills, Slug Loadings
8-1-53: Non-Compliance Reporting
8-1-54: Notification of Changed Discharge
8-1-55: Reserved
8-1-56: Reports From Unpermitted Users
8-1-57: Record Keeping
8-1-58: Sampling Requirements for Users
8-1-59: Analytical Requirements
8-1-60: Monitoring of User's Wastewater
8-1-61: Inspection and Sampling
8-1-62: Monitoring Facilities
8-1-63: Search Warrants
8-1-64: Confidential Information
8-1-65: Publication of Users in Significant Non-Compliance
8-1-66: Notification of Violation
8-1-67: Consent Orders
8-1-68: Show Cause Hearing
8-1-69: Compliance Orders
8-1-70: Cease and Desist Orders
8-1-71: Administrative Fines
8-1-72: Emergency Suspensions
8-1-73: Termination of Discharge (Non-Emergency)
8-1-74: Injunctive Relief
8-1-75: Civil Penalties
8-1-76: Criminal Prosecution
8-1-77: Remedies Non-Exclusive
8-1-78: Performance Bonds
8-1-79: Liability Insurance
8-1-80: Termination of Utility Services
8-1-81: Public Nuisances
8-1-82: Informant Rewards
8-1-83: Contractor Listing
8-1-84: Affirmative Defenses to Discharge Violations
8-1-85: Sewer User Service Charge
8-1-86: Computation of Industrial Waste Service Charge
8-1-87: Transition Rates for Industrial Users
8-1-88: (Repealed)
8-1-89: Woodruff Avenue Interceptor
8-1-90: Grease Interceptor
8-1-91: Interceptors Required to Remove Harmful Ingredients
8-1-92: Septic Tank Waste
8-1-93: (Repealed)
8-1-94: Classification of Users
8-1-95: Domestic and Commercial Rates Outside the City
8-1-96: Billing, Collection, and Termination of Utility Service
8-1-97: Pretreatment Charges and Fees
8-1-98: Recovery of Cost by City
8-1-99: Falsifying Information
8-1-100: Limitation of Liability
8-1-101: Penalty

8-1-1: PURPOSE: This Chapter sets forth uniform requirements for Users of the POTW for the City of Idaho Falls and enables the City to comply with all applicable State and Federal laws including the Clean Water Act and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this Chapter are:

(A) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;

(B) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters of or otherwise be incompatible with the POTW;

(C) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

(D) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

(E) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW.

(F) To establish an equitable distribution of the cost of operating the POTW; and

(G) To establish an equitable means, through the collection of a sewer main connection fee, of requiring persons connecting to an existing sewer main which directly benefits their property, to participate in the costs of installing such main; and

(H) To establish an equitable means through a sewer service connection fee of requiring persons who connect to the sanitary sewer system and the wastewater treatment plant to participate in the capital costs of constructing the entire system and to pay the direct costs of making such connection. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)
8-1-2: DEFINITION OF TERMS: Certain terms used in this Chapter shall have the meanings herein given to them:

ACT: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251, et seq.

APARTMENT: Any building or portion thereof which is designed, built, rented or leased, let, or hired out to be occupied or which is occupied as the home or residence of four (4) or more families living independently of each other and doing their own cooking within the premises.

APPLICABLE PRETREATMENT STANDARDS: For any specified pollutant, City prohibitive standards, City specific pretreatment standards, State of Idaho pretreatment standards, or EPA’s Categorical Pretreatment Standards, whichever standard is appropriate or most stringent.

APPROVAL AUTHORITY: The Regional Administrator of the United States Environmental Protection Agency (EPA), Region 10.

AUTHORIZED REPRESENTATIVE OF THE USER:

(A) If the User is a corporation:

   (1) The president, secretary, treasurer, or a vice-president treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

   (2) The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with appropriate corporate procedures;

(B) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively;

(C) If the User is a Federal, State, or local governmental facility: a director or the highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(D) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.

BAR: A business whose principal activity is serving alcoholic beverages, but not prepared meals, on site.
BEST MANAGEMENT PRACTICES (BMP): Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices. BMP also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIG BOX RETAIL: A very large retail store with more than ten thousand (10,000) gross square footage.

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Celsius, usually expressed as a concentration (milligrams per liter (mg/l)).

BUILDING DRAIN: That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the buildings and conveys it to the side sewer which begins two feet (2’) outside the outer face of the building wall or foundation.

CAR SALES: A business conducting the sale of automobiles where the building contains a wash bay; or a business involving the repair also includes auto body repair shops.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD: Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

CATEGORICAL USER: A User regulated by one of EPA’s Categorical Pretreatment Standards.

CHURCH: A building used for public religious worship.

CLEAN WATER ACT: The Clean Water Act of 1977, as codified in 33 USC Section 1251 et seq.


COLOR: The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

COMBINED SEWER: A sewer receiving both surface runoff and sanitary wastewater.

COMPOSITE SAMPLE: The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

CONVENIENCE STORE: An automobile service station consisting of a building small retail floor area and which has fuel dispensing pumps.

COOLING WATER/NON-CONTACT COOLING WATER: Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.
DAY CARE: A place or facility providing care and supervision for compensation of children not related by blood or marriage to the person or persons providing the care in a place other than the child's or adult's own home or homes.

DIRECTOR: The Director of the Public Works Department of the City or their duly authorized deputy, agent, or representative.

DISCHARGE: The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

DOMESTIC USER: Any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to one hundred (100) gallons per capita per day, 0.2 pounds of BOD per capita per day, and 0.17 pounds of TSS per capita per day.

DUPLEX/TRIPLEX: A dwelling unit which is physically attached to or shares a common party wall with up to two (2) additional dwelling units and which has open space on at least two (2) sides.

DWELLING UNIT: A building or structure or portion thereof that is constructed and used primarily for residential purposes, or any building or structure which has been constructed or altered to provide for two (2) or more families or households or which has been constructed or altered to accommodate travelers or transients.

EFFECTIVE DATE: The effective date of the ordinance adopting this Chapter.

ENVIRONMENTAL PROTECTION AGENCY: The United States Environmental Protection Agency or, where appropriate the Director of the Region 10 Office of Water and Watersheds or other duly authorized official of said agency.

EXISTING SOURCE: A categorical industrial User, the construction or operation of whose facility commenced prior to the publication by EPA of proposed categorical pretreatment standards, which would be applicable to such source if and when the standard is thereafter promulgated in accordance with Section 307 of the Act.

EXISTING USER: Any non-categorical User which was discharging wastewater prior to January 5, 1984, the effective date of this Chapter.

FAST FOOD RESTAURANT: A restaurant which possesses all three (3) of the following characteristics: 1) all food orders are placed at a counter, 2) drive-thru window service, and 3) meals are served in paper, plastic, or other types of disposable materials.

GARBAGE: The residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

GRAB SAMPLE: A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.
GYM: A business where physical exercises, dance, martial arts, or other physical activities are performed inside.

HALL: a large room or theater for meetings, concerts, or other events.

HOTEL: Any building used, rented, or hired out to be occupied on a daily or weekly basis for sleeping purposes by guests.

INDIRECT DISCHARGE: The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

INDUSTRIAL USER: A source of indirect discharge. The source shall not include “Domestic User” as defined in this Chapter.

INTERFERENCE: A discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its sludge processes, use or disposal; or (3) is a cause of a violation of the City’s NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

MAXIMUM ALLOWABLE DISCHARGE LIMIT: The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

MEDICAL OFFICE: An institution providing health or veterinary service or medical, surgical, or custodial care of the sick or injured.

MEDICAL WASTES: Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NEW SOURCE:

(A) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:
(1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
(3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(B) Construction on a site at which an existing source is located that results in a modification rather than a new source, if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (A) above, but otherwise alters, replaces or adds to existing process or production equipment.

(C) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

(1) Begun, or caused to begin as part of a continuous on-site construction program:
   (a) any placement, assembly or installation of facilities or equipment; or
   (b) Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

(2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

NEW USER: A “New User” is a User that is not regulated under federal categorical pretreatment standards but that applies to the City for a new building permit or who occupies an existing building and plans to commence discharge of wastewater to the City’s collection system after the Effective Date of this Chapter. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an “existing User” if no significant changes are made in the manufacturing operation.

OFFICE: A room, set of rooms, or building used for providing a service or as a place for commercial, professional, or bureaucratic work.

PASS THROUGH: A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or dischargers from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

PERMITTEE: A person or User issued a wastewater discharge permit.
PERSON: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.

pH: A measure of the acidity or alkalinity of a substance, expressed in standard units.

POLLUTANT: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity or odor.

PRETREATMENT: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6 (e).

PRETREATMENT REQUIREMENTS: Any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.

PRETREATMENT STANDARDS: Pretreatment prohibited discharge standards, categorical pretreatment standards, and local limits and best management practices (“BMP’s”) as established by the City.

PRIVATE SEWER: All sewers and sewer service lines except public sewers.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES: Absolute prohibitions against the discharge of certain substances listed in Section 8-1-9 (A) and (B) of this Chapter.

PUBLICLY OWNED TREATMENT WORKS (POTW): A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the City.

PUBLIC SEWER: The sewer main line which discharges directly or indirectly into the POTW and which is owned by the City and located on public property or within a publicly-owned easement.
RCRA: The Resource Conservation and Recovery Act as adopted by the United States as the same exists on the date hereof or as may be amended hereafter.

REST HOME: A building for the care and lodging of elderly or incapacitated persons.

RESTAURANT: A food service establishment where people pay to sit and eat meals that are prepared, cooked, and served on the premises.

RETAIL: A building or unit providing the sale of goods to the public in relatively small quantities for use or consumption rather than for resale.

SALON: An establishment where a hairdresser or beautician conducts business.

SANITARY SEWAGE: Wastes that are derived principally from dwellings, business buildings, institutions and other places of habitation or occupation exclusive of storm and surface water.

SANITARY SEWER: A sewer that conveys, or which is intended to convey, sanitary sewage, or industrial wastes, or a combination of the two.

SCHOOL: An institution dedicated to the education of children, teens, and adults differentiated as follows:
- Elementary School: Grades K through 6;
- Junior High School: Grades 7 through 8;
- High School: Grades 9 through 12;
- College or University: Post High School education

SEPTIC TANK WASTE: Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SERVICE CHARGE: The charge assessed by the City for use of the POTW.

SEWAGE: Human excrement and gray water (household showers, dishwashing operations, etc.).

SEWER: Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

SEWER SERVICE LINE: A pipe or conduit for conveying wastewater.

SEWER SERVICE LINE: The pipe extension from the building drain to the public sewer, including the tap into the main line and that part of the pipe extension located in the public right-of-way.

SHALL, MAY: “Shall” is mandatory, “may” is permissive.

SHOP: A building or unit where things are manufactured or repaired, typically consisting of a small office accompanied by a larger work space.

SIGNIFICANT INDUSTRIAL USER (SIU):
A User subject to Categorical Pretreatment Standards; or,

A User that:

1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater into the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); or
2. Contributes a process wastestream which makes up five (5%) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
3. Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.

Upon finding that a User meeting the criteria in Subsection two (2) has no reasonable potential for adversely affecting the POTW’s operation or for violating any applicable pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a significant industrial User.

SINGLE-FAMILY DWELLING: A detached dwelling unit, including manufactured or mobile homes, designed for or occupied exclusively by one (1) household.

SLUG LOAD: Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Sections 8-1-9 through 8-1-12 of this Chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE: A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORM DRAIN: A pipe or conduit conveying Storm Water, surface and ground water drainage and which does not convey sanitary sewage or industrial wastes.

STORM WATER: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

TREATMENT PLANT EFFLUENT: The discharge from the POTW into waters of the United States.

TOTAL SUSPENDED SOLIDS (TSS): The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

TOXIC POLLUTANT: One (1) of one hundred twenty-six (126) pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 of the Act (33 U.S.C. 1317).

UNPOLLUTED WATER: Any water or liquid containing none of the following substances: free or emulsified grease or oil; acids or alkalis; substances that may impart taste or color characteristics; toxic or poisonous substances in suspension, colloidal state or solution; odorous or otherwise obnoxious gases.
UPSET: An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this Chapter due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

USER: Any person who discharges wastewater into the POTW.

WAREHOUSE: A building or unit where materials, manufactured goods, or possessions are stored.

WASTEWATER: Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER DISCHARGE PERMIT: An authorization or equivalent control document issued by the City to Users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this Chapter.

WASTEWATER TREATMENT PLANT: That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. 2278, 4-23-98; Ord. 2609, 7-28-05; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-3: ABBREVIATIONS: The following abbreviations shall have the designated meanings:

- ASPP: Accidental Spill Prevention Plan
- BOD: Biochemical Oxygen Demand
- CFR: Code of Federal Regulations
- COD: Chemical Oxygen Demand
- EPA: U.S. Environmental Protection Agency
- GPD: Gallons per day
- IWA: Industrial Waste Acceptance
- l: Liter
- LEL: Lower Explosive Limit
- mg: Milligrams
- mg/l: Milligrams per liter
- NPDES: National Pollutant Discharge Elimination System
- O&M: Operations and Maintenance
- POTW: Publicly Owned Treatment Works
- RCRA: Resource Conservation and Recovery Act
- SIC: Standard Industrial Classifications
- SIU: Significant Industrial User
- WWTP: The Wastewater Treatment Plant
- TSS: Total Suspended Solids
- USC: United States Code
8-1-4: ADMINISTRATION: Except as otherwise provided herein, the Director shall administer, implement and enforce the provisions of this Chapter. Any powers granted to or duties imposed upon the Director may be delegated to other City personnel. (Ord. 2223, 1-9-97)

8-1-5: SCOPE OF CHAPTER: This Chapter shall apply to all Users of the POTW, regardless of whether or not such User is located within the boundaries of the City. The City shall administer, implement, and enforce the provisions of this Chapter. (Ord. 2223, 1-9-97)

8-1-6: SEWAGE TO BE DISCHARGED INTO WASTEWATER TREATMENT SYSTEM: All sanitary sewage, industrial waste or other waters containing any pollutant shall be discharged into the POTW. No person shall dispose of sewage, waste or polluted waters into the POTW except through an authorized connection to the POTW or unless otherwise expressly permitted by this Chapter. No person shall discharge sewage, waste or water containing any pollutant into the public sewer through a manhole, unless expressly authorized by the Sewer Superintendent. (Ord. 2357, 12-22-99)

8-1-7: STORM WATER NOT PERMITTED IN SANITARY SEWER: No person shall discharge or cause to be discharged any storm water, ground water, roof runoff, sub-surface drainage, cooling water or unpolluted water from any source other than the City water system, into the POTW. (Ord. 2223, 1-9-97)

8-1-8: UNPOLLUTED WATER DISCHARGED TO STORM DRAIN: All storm water shall be discharged to such sewers as are expressly designated or approved by the City as combined sewers or storm drains, or to a natural outlet approved by the City. Industrial cooling water or unpolluted process water may be discharged upon approval of the City to a storm drain, combined sewer or natural outlet. (Ord. 2223, 1-9-97)

8-1-9: NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES:

(A) General Prohibitions: No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(B) Specific Prohibitions: No User shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

2. Wastewater having a pH less than 5.5 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment in the WWTP;
(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch (1/2”) in any dimension;

(4) Pollutants, including oxygen-demanding pollutants released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature which will inhibit biological activity in the WWTP resulting in interference, but in no case wastewater which causes the temperature at the introduction into the WWTP plant to exceed 104EF (40EC) unless the Director approves alternate temperature limits in writing;

(6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quality that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the City;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life or health, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit. Color in combination with turbidity shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;

(11) Wastewater containing any radioactive wastes or isotopes except as specifically approved in writing by the Director in compliance with applicable State or Federal regulations;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
(13) Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;

(14) Medical wastes, except as specifically authorized by the Director;

(15) Wastewater causing, along or in conjunction with other sources, the WWTP's effluent to fail a toxicity test;

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter;

(18) Grease, garbage other than ground garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.;

(19) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;

(20) Any wastewater, which in the opinion of the Director can cause harm either to the sewers, WWTP or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance, unless allowed under a special agreement approved in writing by the Director, except that no special waiver shall be given from categorical pretreatment standards;

(21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septic tank waster, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City and paid all fees assessed for the privilege of said discharge;

(22) Any hazardous waste as prohibited or regulated by the State of Idaho or 40 CFR Part 261;
(23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA).

Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-10: NATIONAL PRETREATMENT STANDARDS: CATEGORICAL STANDARDS: The National Categorical Pretreatment Standards as amended and promulgated by EPA pursuant to the Act and as found at 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated and shall be enforceable under this Chapter. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-11: STATE REQUIREMENTS: State requirements and limitations on discharges to the POTW shall be met by all Users which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations, or those in this Chapter or any other applicable Chapter of this Code. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-12: LOCAL LIMITS: The following pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing pollutant levels in excess of the following daily maximum allowable discharge limits.

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Daily Maximum</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arsenic</td>
<td>0.04 mg/l</td>
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<tr>
<td>Cadmium</td>
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<td>Chromium (total)</td>
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<td>Copper</td>
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<td>Cyanide</td>
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<tr>
<td>Lead</td>
<td>0.29 mg/l</td>
</tr>
<tr>
<td>Mercury</td>
<td>0.002 mg/l</td>
</tr>
<tr>
<td>Nickel</td>
<td>2.38 mg/l</td>
</tr>
<tr>
<td>Oil and grease (petroleum or mineral oil products)</td>
<td>100.00 mg/l</td>
</tr>
<tr>
<td>Oil and grease (animal and vegetable-based)</td>
<td>250.00 mg/l</td>
</tr>
<tr>
<td>Silver</td>
<td>0.43 mg/l</td>
</tr>
<tr>
<td>Zinc</td>
<td>0.90 mg/l</td>
</tr>
</tbody>
</table>

The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise.
Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above. Where a User is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

POTW's may develop Best Management Practices ("BMP's") to implement paragraphs as listed in 40 CFR 403.5 (c) (1) and (2). Such BMP's shall be considered local limits and Pretreatment Standards for the purpose of this Chapter and Section 307 (d) of the Act. (Ord. 2278, 4-23-98; Ord. 2609, 7-28-05; Ord. 2684, 12-14-06)

8-1-13: RIGHT OF REVISION: City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-14: DILUTION: No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on Users which they believe may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-15: SPECIAL AGREEMENTS: City reserves the right to enter into special agreements with Users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the User may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the approval authority in accordance with 40 CFR 403.13. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-16: APPROVAL REQUIRED FOR WASTEWATER: No User shall discharge wastewater into the POTW without having first filed an application with the Director and having obtained a permit to discharge wastewater into the POTW. At the time of such application, the applicant shall provide sufficient information concerning the nature, concentration and quantity of their waste or such other information as may be reasonably necessary for the Director to assure compliance with this Chapter. Upon receipt of said application, the Director shall review the same and if necessary, inspect the property and facilities of the applicant to determine if said facilities are in compliance with the provisions of this Chapter. Upon making such determination, the Director shall forthwith issue a permit to the applicant authorizing discharge of waste to the public sewer. All significant industrial Users shall in addition comply with the provisions of Sections 8-1-33 through 8-1-46 of this Chapter. Such permit may be issued upon conditions reasonably necessary to assure compliance with this Chapter, including, but not limited to, the following:

(A) Limits on the average and maximum wastewater constituents and characteristics;

(B) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(C) Requirements for installation and maintenance of inspection and sampling facilities;

CITY CODE OF THE CITY OF IDAHO FALLS 383
(D) Conditions concerning sampling locations, frequency of sampling, number, types and standards for tests and a reporting schedule therefor;

(E) Compliance schedules;

(F) Periodic submission of technical reports or other discharge reports necessary to determine compliance with this Chapter, and the frequency of monitoring of the discharge;

(G) Any other condition reasonably necessary to assure compliance with this Chapter.

(Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-17: PRETREATMENT FACILITIES: Users shall provide necessary wastewater treatment as required to comply with this Chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this Chapter within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to City shall be provided, operated, and maintained at the User's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to City for review, and shall be acceptable to City before construction of the facility. The review of such plans and operating procedures will in no way relieve the User from the Responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this Chapter. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-18: DEADLINES FOR COMPLIANCE WITH APPLICABLE PRETREATMENT REQUIREMENTS: Compliance by existing Users covered by categorical pretreatment standards shall be accomplished within three (3) years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City shall establish a final compliance deadline date for any existing User not covered by categorical pretreatment standards or for any categorical User when the local limits for said User are more restrictive than the Federal Categorical Pretreatment Standards.

New Source Dischargers and New Users are required to comply with applicable pretreatment standards within the shortest feasible time not to exceed ninety (90) days from the beginning of discharge. New Sources and New Users shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a Categorical User shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing User or a categorical User that must comply with a more stringent local limit, which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to ensure compliance within the shortest time feasible.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-19: ADDITIONAL PRETREATMENT MEASURES:

(A) Whenever deemed necessary, the Director may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial
wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Chapter.

(B) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential Users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the User at its expense.

(C) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Ord. 2223, 1-9-97; Ord. 2609, 7-28-05; Ord. 2684, 12-14-06)

8-1-20: ACCIDENTAL SPILL PREVENTION PLANS: The Director may require any User to develop and implement an accidental spill prevention plan (ASPP) or slug control plan. Where deemed necessary by City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the User's cost and expense. An accidental spill prevention plan or slug control plan showing facilities and operating procedures to provide this protection shall be submitted to City for review and approval before implementation. City shall determine which User is required to develop a plan and require said plan to be submitted within thirty (30) days after notification by City. Each User shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by City. Review and approval of such plans and operating procedures by City shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of this Chapter.

(A) Any User required to develop and implement an accidental spill prevention plan shall submit a plan which addresses, at a minimum, the following:

a. Description of discharge practices, including non-routine batch discharges;

b. Description of stored chemicals;

c. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 8-1-9 through 8-1-12 of this Chapter; and

d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic chemicals (including solvents), and/or measures and equipment for emergency response.

(B) Users shall notify the City Wastewater Treatment Plant immediately after the occurrence of a slug or accidental discharge of substances regulated by this Chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected User shall be liable for any expense, loss, or damage to
the POTW, in addition to the amount of any fines imposed on the City on account thereof under State or Federal law.

(C) Within five (5) days following an accidental discharge, the User shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this Chapter or other applicable law.

(D) Signs shall be permanently posted in conspicuous places on the User's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-21: CONNECTION TO SANITARY SEWER REQUIRED: Every building or structure located within the City and from which any wastewater is discharged shall be connected to the public sanitary sewer if such sewer is within two hundred feet (200’) of such building or structure. All connections to the sewer shall be made at the expense of the owner or person having control thereof. Any person who fails to make such connection within ninety (90) days after receiving a notice from City advising them of the availability of the sewer, shall be guilty of a misdemeanor. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-22: SEWER SERVICE LINE: A separate and independent sewer service line shall be installed for every building using or required to use the POTW. Separate sewer service lines are not required for each space in a travel trailer court nor for any dwelling unit having a total living area of five hundred square feet (500’) or less. (Ord. 2278, 4-23-98; Ord. 3094, 9-22-16)

8-1-23: SEWER SERVICE CONNECTION FEES:

(A) Permits Required: No person shall install or alter any sanitary sewer within the City, or tap onto or connect to any sanitary sewer line, whether lateral, main or interceptor, without first obtaining a permit from City.

(B) Sewer Connection Fees: Before any permit is issued for the installation or alteration of any sanitary sewer or before any connection is made to any sanitary sewer line, whether lateral, main or interceptor, the applicant shall pay to City a sewer connection fee in an amount set from time to time by Resolution of the Council, for the following:

- Single Family Dwelling;
- Mobile Home Courts or Mobile Home Subdivisions;
- Motels, Hotels, Boarding Houses, Travel Trailer Courts;
- Trailer Courts;
- Apartment Houses, Duplexes, Triplexes, Condominiums and similar living units; and
- Commercial Buildings
(C) A separate sewer connection permit must be obtained for each building or trailer court or cabin court using the sanitary sewer system of City, and except as otherwise provided herein, the service connection fee must be paid whenever a plumbing permit is required by City. Once the required sewer service connection fee has been paid for any building connected to the POTW, no further connection fee shall be charged for the connection of any sewer serving any building constructed or reconstructed at the same place, or so near the same place that no substantial extension of the original side sewer is necessary to serve it. If a connection permit was issued after January 1, 1958, the connection fee is deemed to have been paid. In all other cases, proof of payment of the fee shall be furnished by the applicant, and in the absence of such proof, a connection fee shall be charged.

(D) Sewer Main Connection Charge. Before connecting to any sewer main constructed in whole or in part at City expense, all persons desiring such connection shall pay a sewer main connection fee in an amount set from time to time by Resolution of the Council per front foot of property owned by such person and fronting upon a street or public right of way within which a sewer main is located. Despite the foregoing, if any person requests annexation to the City and as part of such annexation also requests connection to such sewer main, then the fee shall be due in full at the time such property is annexed to City. If any such property is located upon a corner or is bounded by two or more streets in which a sewer main is located, the calculation for the fee shall be based upon the frontage of the longest street in which a sewer main is located. All sewer mains within City shall be deemed to have been constructed in whole or in part at City expense, unless the applicant presents written evidence conclusively demonstrating such main was constructed entirely from private monies or was constructed entirely with funds from a state or federal grant. If any person constructs a sewer main entirely at their expense, City may, by written agreement, pay over to such person all sewer main connection fees collected by City from any other person who subsequently connects to such sewer main.

(E) Sanitary Sewer Capital Improvement Fund: There is hereby established a Sanitary Sewer Capital Improvement Fund to be supervised and managed by City Treasurer. All sewer service connection fees and sewer main fees collected under this Chapter shall be deposited into said Fund and shall be distributed only for the purposes set forth below.

(F) Disbursement of Funds: Disbursements may be made from the Sanitary Sewer Capital Improvement Fund for the following purposes only:

1. Capital improvements to the sanitary treatment facilities.
2. Extensions to the sanitary sewer system, including lateral, mains and interceptors.
3. Payment of principal and interest on any general obligation or revenue bond or bonds issued by the City to defray the cost of construction, extension or improvement of the sanitary sewer system.
4. Reimbursement of sewer main fees to a developer who has constructed a sewer main or any portion thereof for which sewer main fees have been collected from any other
property owner served by such sewer main. (Ord. 2312, 2-25-99; Ord. 2964, 8-14-14; Ord. 3094, 9-22-16)

8-1-24: SEWER SERVICE REPAIR: When any sewer service line or private sewer connected to the public sewer becomes obstructed, broken, or out of order, the owner, agent, or tenant of such premises shall repair the same at his own expense. (Ord. 2278, 4-23-98; Ord. 3094, 9-22-16)

8-1-25: PERMIT REQUIRED TO WORK ON PUBLIC SEWER: No person shall uncover, disturb, construct, repair, or extend any part of the public sewer or any private sewer located within a public row without first obtaining a sewer service excavation permit. No person shall extend any private sewer or sewer service beyond the limits of the building or property for which a permit has been given without obtaining a permit for the desired extension. The issuance of a sewer service permit shall not be construed to permit any work for which a public right of way excavation permit is required by this Code. (Ord. 2278, 4-23-98; Ord. 3094, 9-22-16)

8-1-26: NOTICE OF INSPECTION: No person shall make a new connection to any public sewer without first giving advance notice to the Director at least five (5) hours prior to the time of making such connection, provided however if such connection is located within a public right-of-way, no further notice shall be required beyond the requirements of Section 8-7-2 of this Code. Notices given on any Saturday or legal holiday will not be accepted. All connections must be made in accordance with the City Standard Drawings and Specifications and shall be inspected by City before the trench is filled. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-27: RIGHT TO REVOKE PERMISSION: All sewer service excavation permits issued under this Chapter may be revoked upon failure of the holder of the permit to comply with this Chapter or the construction standards set forth in the City Standard Drawings and Engineering Specifications. (Ord. 2223, 1-9-97)

8-1-28: SEWER CONSTRUCTION SPECIFICATIONS: All construction or reconstruction on public and private sewer services shall be in accordance with City Standard Drawings and Engineering Specifications. (Ord. 2223, 1-9-97)

8-1-29: SUBMISSION OF INFORMATION: Plans, specifications and any other pertinent information relating to proposed pretreatment or processing facilities shall be submitted for approval to the approving authority prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers. (Ord. 2223, 1-9-97)

8-1-30: INJURY TO SEWERAGE SYSTEM UNLAWFUL: No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. No person shall deposit into the POTW any substance which will likely obstruct the flow of wastewater in the POTW. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-31: STATE REQUIREMENT: State standards and limitations on discharges to the POTW shall be met by all Users where such standards are more stringent than the standards in this or any other applicable Chapter. (Ord. 2223, 1-9-97)

8-1-32: ACCIDENTAL DISCHARGES/SLUG CONTROL PLANS:
(A) The Director may require any User to develop and implement an accidental discharge/slug control plan (“ASPP”). Where deemed necessary by City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the User’s cost and expense. An accidental spill prevention plan/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to City for review and approval before implementation. City shall determine which User is required to develop a plan and require said plan to be submitted within thirty (30) days after written notification by City that an ASPP is required. Each User shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by City. Review and approval of such plans and operating procedures by City shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of this Chapter.

(B) Any User required to develop and implement an ASPP shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 8-1-9 through 8-1-12 of this Chapter; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

(C) Users shall notify the Director immediately upon the occurrence of a “slug” or “accidental discharge” of substances regulated by this Chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected User shall be liable for any expense, loss, or damage to the POTW, including the amount of any fines imposed on the City on account thereof under State or Federal law.

(D) Within five (5) days following an accidental discharge, the User shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties or other liability which may be imposed by this Chapter or other applicable law.

(E) Signs shall be permanently posted in conspicuous places on the User's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct
all employees who may cause or discover such a discharge with respect to emergency notification procedures. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-33: WASTEWATER DISCHARGE PERMIT REQUIREMENTS: No significant industrial User shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Chapter and subjects the wastewater discharge permittee to the sanctions set forth in this Chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of Federal, State, and local law. The Director may require other Users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this Chapter. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-34: WASTEWATER DISCHARGE PERMITS—EXISTING SIU’S: Any SIU that was discharging wastewater into the POTW prior to the Effective Date and that wishes to continue such discharges in the future shall submit, within sixty (60) days after notification by the Director a permit application to City in accordance with Section 8-1-37 of this Chapter. The City’s notification to SIU’s covered by categorical pretreatment standards will be in ample time to ensure that the SIU’s comply with the one hundred eighty (180) day submittal deadline date established in 40 CFR § 403.12(b). (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-35: WASTEWATER DISCHARGE PERMITS—NEW SOURCES AND NEW USERS: At least ninety (90) days prior to the anticipated start-up, any New Source, which is a source that becomes a User subsequent to the proposal of an applicable categorical pretreatment standard that is later promulgated, and any New User considered by City to fit the definition of a SIU, shall apply for a wastewater discharge permit and will be required to submit to City at least the information listed in paragraphs (A) through (E) of Section 8-1-37 of this Chapter. A New Source or New User cannot discharge without first receiving a wastewater discharge permit from City. New Sources and New Users shall be required to include in their application information on the method of pretreatment the User intends to use to meet applicable pretreatment standards. New Sources and New Users shall give estimates of the information requested in paragraphs (D) and (E) of Section 8-1-37. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-36: WASTEWATER DISCHARGE PERMITS; EXTRA-JURISDICTIONAL USERS: Any Existing User who is located beyond City limits and who is required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 8-1-37. New Source and New Users located beyond City limits are also required to obtain a wastewater discharge permit in accordance with Section 8-1-37 of this Chapter. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-37: WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS: All Users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. The Director shall approve a form to be used as a permit application. Categorical Users submitting the following information shall be deemed to have complied with 40 CFR 403.12(b).

(A) Identifying Information. The User shall submit the name and address of the facility, including the names of the operator and owners;
(B) Permits. The User shall submit a list of any environmental control permits held by or for the facility;

(C) Description of Operations. The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes; site plans; floor plans; mechanical and plumbing plans; and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

(D) Flow Measurement.

   (1) Categorical User: The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

      (a) Regulated or manufacturing process streams; and

      (b) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

   (2) Non-Categorical User. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

      (a) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director.

City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(E) Measurements of Pollutants.

   (1) Categorical User:

      (a) The User shall identify the applicable pretreatment standards for each regulated or manufacturing process.

      (b) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the Categorical Pretreatment Standard or as required by City) of regulated pollutants (including standards contained in Sections 8-1-9 through 8-1-12 of this Chapter, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall
conform to sampling and analytical procedures outlined in Sections 8-1-58 through 8-1-60 of this Chapter.

(c) The User shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.

(d) Where an alternate concentration or mass limit has been calculated in accordance with 40 CRF 403.6(e) for a categorical User covered by a categorical pretreatment standard, this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Non-Categorical User.

(a) The User shall identify the applicable pretreatment standards for its wastewater discharge.

(b) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by City) of regulated pollutants contained in Sections 8-1-9 through 8-1-12 of this Chapter, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Sections 8-1-58 through 8-1-60 of this Chapter.

(c) The User shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this Subsection.

(d) Where the Director has developed alternate concentration or mass limits because of dilution, this adjusted limit along with supporting data shall be submitted as part of the application.

(F) Certification. A statement, reviewed by an authorized representative of the User and certified by a qualified professional as outlined in Section 8-1-38, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (hereafter referred to as "O and M") or additional pretreatment is required for the User to meet the applicable pretreatment standards and requirements.

(G) Compliance Schedule. If additional pretreatment or O and M will be required to meet the applicable Pretreatment Standards, the User shall submit the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The User's schedule shall conform with the requirements of Section 8-1-49 of this Chapter. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 8-1-18 of this Chapter.

(1) Where the User's Categorical Pretreatment Standard has been modified by removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the User submits the report required by this paragraph, the information required by paragraphs (F) and (G) of this Section shall pertain to the modified limits.
(2) If the Categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the User submits the report required by paragraphs (F) and (G) of this Section, then a report containing modified information shall be submitted by the User within sixty (60) days after the new limit is approved.

(H) The User shall submit any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-38: SIGNATORY AND CERTIFICATION REQUIRED: All wastewater discharge permit applications and User reports must be signed by a duly authorized representative of the User. The duly authorized employee must be an individual holding a position of responsibility for the overall operation of the facility or the User's Pretreatment Program. This authorization must be made in a writing signed by the principal executive officer or ranking elected official for the User and submitted to the Director prior to or together with the applications and reports being submitted by the User. The application shall contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-39 WASTEWATER DISCHARGE PERMIT DECISIONS: The Director will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty (30) days of full evaluation and acceptance of the data furnished. The Director may deny any application for a wastewater discharge permit if the application fails to conform to this Chapter in any respect. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-40: WASTEWATER DISCHARGE PERMIT CONTENTS:

(A) Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass-through or interference, protect the quality of the body of water receiving the treatment plant’s effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(B) Wastewater discharge permits must contain the following conditions:

(1) A statement that indicates the wastewater discharge permit duration which in no event shall exceed five (5) years;
(2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from City, and provision for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Applicable pretreatment standards and requirements, including any special State requirements;

(4) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on Federal, State and local law; and

(5) Requirement for immediate notification to City where self-monitoring results indicate non-compliance;

(6) Requirement to report a by-pass or upset of a pretreatment facility;

(7) Requirement to report immediately to City all discharges, including slug loadings that could cause problems to the POTW:

(8) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to City within thirty (30) days after becoming aware of the violation.

(9) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

(10) Requirements to control Slug discharges, if determined by the POTW to be necessary.

(C) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average or maximum rate of discharge, time of discharge and/or requirements for flow regulation and equalization;

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

(5) The unit charge or schedule of User charges and fees for the management of the wastewater discharge to the POTW;
(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

(8) Any special agreements the Director chooses to continue or develop between City and User;

(9) Other conditions as deemed appropriate by the Director to ensure compliance with this Chapter and State and Federal laws, rules and regulations.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-41: WASTEWATER DISCHARGE PERMIT APPEALS:

(A) Any person, including the User, may petition City to reconsider the terms of a wastewater discharge permit within twenty-eight (28) days of its issuance.

(B) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(C) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(D) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

(E) If City fails to act within twenty-eight (28) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

(F) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a petition for judicial review with the District Court of the Seventh Judicial District, Bonneville County, Idaho, within twenty-eight (28) days after the date such decision was signed and mailed or physically delivered to the User. Judicial review of such petitions shall be conducted in accordance with Rule 84 of the Idaho Rules of Civil Procedure and the Idaho Administrative Procedure Act to the extent such procedures do not expressly conflict with the provisions of this Chapter. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-42: WASTEWATER DISCHARGE PERMIT DURATION: Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)
8-1-43: WASTEWATER DISCHARGE PERMIT MODIFICATION: The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

(A) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

(B) To address significant alterations or additions to the User's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(D) Information indicating that the permitted discharge poses a threat to the POTW, City personnel, or the receiving waters;

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required report;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership or operation to a new owner or operator, provided however modification for this purpose may not be allowed unless the wastewater discharge permit is transferable as provided in Section 8-1-44 of this Chapter.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-44: WASTEWATER DISCHARGE PERMIT TRANSFER: Wastewater discharge permits may be reassigned or transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

(A) States that the new owner or operator has no immediate intent to change the facility's operations and processes;

(B) Identifies the specific date on which the transfer is to occur; and

(C) Assumes full responsibility for complying with the existing wastewater discharge permit beginning on the date the transfer is to occur.

(D) Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.
8-1-45: WASTEWATER DISCHARGE PERMIT REVOCATION: Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

(A) Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;

(B) Failure to provide prior notification to the Director of changed conditions;

(C) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(D) Falsifying self-monitoring reports;

(E) Tampering with monitoring equipment;

(F) Refusing to allow the Director or their nominee timely access to the facility premises and records, provided proper identification is displayed at the time access is requested;

(G) Failure to meet discharge limitations;

(H) Failure to pay fines;

(I) Failure to pay sewer charges;

(J) Failure to meet compliance schedules;

(K) Failure to complete a wastewater survey or the wastewater discharge permit application;

(L) Failure to provide advance notice of the transfer of a permitted facility; or

(M) If the City has to invoke its emergency provision as cited in Section 8-1-72 of this Chapter.

(N) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Chapter.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-46: WASTEWATER DISCHARGE PERMIT REISSUANCE: A User who is required to have a wastewater discharge permit shall apply for the reissuance of a wastewater discharge permit by submitting a complete wastewater discharge permit application, in accordance with Section 8-1-37 of this Chapter, a minimum of sixty (60) days prior to the expiration of the User's existing wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective...
wastewater discharge permit until City issues or denies the new wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who failed to submits its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-47: FINAL COMPLIANCE REPORTS:

(A) Within ninety (90) days following the date for final compliance of an existing Significant Industrial User with applicable pretreatment standards and requirements set forth in this Chapter, in Federal Categorical Standards, or in a wastewater discharge permit, or in the case of a New Source or a New User considered by City to fit the definition of an SIU, within ninety (90) days following commencement of the introduction of wastewater into the POTW, the affected User shall submit to the Director a report containing the information outlined in paragraphs (D) through (F) of Section 8-1-37 of this Chapter.

(B) For Users subject to equivalent mass or concentration limits established by City in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the User’s long-term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User’s actual production during the appropriate sampling period.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-48: PERIODIC COMPLIANCE REPORT:

(A) Any User that is required to have an industrial waste discharge permit and performs self-monitoring shall submit to City during the months of June and December, unless required on other dates or more frequently by City, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, Users shall sample their discharge at least twice per year.

(B) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this Chapter or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a User sampled and analyzed more frequently than what was required by City or by this Chapter using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

(C) Any User subject to equivalent mass or concentration limits established by City or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in Section 8-1-47(B) of this Chapter.
(D) If City calculated limits to factor out dilution flows or non-regulated flows, the User will be responsible for providing flows from the regulated process flows, dilution flows, and non-regulated flows.

(E) Flows shall be reported on the basis of actual measurement, provided, however, City may accept reports of average and maximum flows estimated by verifiable techniques if City determines that an actual measurement is not feasible.

(F) Flows shall be reported on the basis of actual measurement, provided, however, the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.

(G) Discharges sampled shall be representative of the User's daily operations and shall be taken in accordance with the requirements specified in Sections 8-1-58 through 8-1-60 of this Chapter.

(H) City may require reporting by Users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

(I) City may require self-monitoring by the User or, if requested by the User, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this Section. If City agrees to perform such periodic compliance monitoring, it may charge the User for such monitoring, based upon the costs incurred by City for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the User’s sewer billing statement. City shall be under no obligation to perform periodic compliance monitoring for a User.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-49 COMPLIANCE SCHEDULES FOR APPLICABLE PRETREATMENT STANDARDS:

(A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(B) No increment referred to in paragraph (A) of this Section shall exceed nine (9) months.

(C) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to City including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.
8-1-50:  NOTIFICATION OF SIGNIFICANT PRODUCTION CHANGES:  Any User operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify City within two (2) business days after the User has a reasonable basis to know that its production level will significantly change within the next calendar month.  Any User not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.  (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-51:  HAZARDOUS WASTE NOTIFICATION:

(A) Any User that is discharging more than fifteen (15) kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to City, the EPA Region 10, Office of Air, Waste and Toxic Chemicals and, to the extent required by law and, the Idaho Department of Health and Welfare Division. Any existing User exempt from this notification, shall comply with the requirements contained herein within thirty (30) days of becoming aware of a discharge of fifteen (15) kilograms or greater of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the City sewer system. Such notification shall include:

(1) The name of the hazardous waste as set forth in 40 CFR Part 261;

(2) The EPA Hazardous waste number;

(3) The type of discharge (continuous, batch, or other); and

(4) If an industrial User discharges more than one hundred (100) kilograms of such waste per calendar per month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the Industrial User:

(a) An identification of the hazardous constituents contained in the wastes;

(b) An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month; and

(B) An estimation of the mass of constituents in the wastestreams expected to be discharged during the following twelve (12) months.

(C) These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

(D) Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a User shall notify City of the discharge of such a substance within ninety (90) days of the effective date of such regulations.
(E) In the case of any notification made under this paragraph, an industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3003, 04-23-15; Ord. 3094, 9-22-16)

8-1-52: NOTICE OF POTENTIAL PROBLEMS, INCLUDING ACCIDENTAL SPILLS, SLUG LOADINGs: Any User shall notify City immediately of all discharges that could cause problems to the POTW, including any slug loads, as defined in this Chapter. The notification shall also include the concentration and volume of the discharge, corrective action being taken or proposed to be taken, and steps being taken to reduce any adverse impact on the POTW. Any User who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on City under State or Federal law. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-53: NON-COMPLIANCE REPORTING: If sampling performed by a User indicates a violation, the User shall notify City within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling within five (5) days and submit the results of the repeat analysis to City within thirty (30) days after becoming aware of the violation. Where City has performed the sampling and analysis in lieu of the Industrial User, City must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

(A) City performs sampling at the Industrial User's location at a frequency of at least once per month; or

(B) City performs sampling at the Industrial User's location between the time when the initial sampling was conducted and the time when the User receives the results of this sampling.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-54: NOTIFICATION OF CHANGED DISCHARGE: All Users shall promptly notify City in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the User has submitted initial notification under 40 CFR 403.12 (p). (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-55: (RESERVED):

8-1-56: REPORTS FROM UNPERMITTED USERS: All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to City as the Director may require (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-57: RECORDKEEPING: Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, including
documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall be kept and made available to the City for a period of at least three (3) years after their creation. This period shall be automatically extended for the duration of any litigation concerning the User or POTW, or where the User has been specifically notified of a longer retention period by the Director. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-58: SAMPLING REQUIREMENTS FOR USERS:

(A) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. The samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during the twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory. Composite samples for other parameters unaffected by compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(B) For sampling required in support of baseline monitoring and ninety (90) day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by 40 CFR 403.12 (e) and (h), the Director shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

(C) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by City and contained in the User's wastewater discharge permit. For categorical Users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastewater formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable Categorical Pretreatment Standards. For other SIUs, for which the City has adjusted its local limits to factor out dilution flows, the User should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standards. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by City or the applicable Standard to determine compliance with the Standard.

(D) All sample results shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the User. If a User samples and analyzes more frequently than what was required in its wastewater discharge permit, using methodologies in 40 CFR Part
136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-59: ANALYTICAL REQUIREMENTS: All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA. (Ord. 2223, 1-9-97)

8-1-60: MONITORING OF USER'S WASTEWATER: City will follow the same procedures as outlined in Sections 8-1-58 and 8-1-59 of this Chapter whenever it deems City monitoring is appropriate to ensure compliance with this Chapter. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-61: INSPECTION AND SAMPLING: City shall have the right to enter the facilities of any User to ascertain whether the purposes of this Chapter, and any wastewater discharge permit or order issued hereunder, are being met and whether the User is complying with all requirements thereof. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(A) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

(B) The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling or metering of the User's operations.

(C) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

(D) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this Chapter. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-62: MONITORING FACILITIES:

(A) Each User shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to City. Each monitoring facility shall be situated on the User's premises, except where such a location would be impractical or cause undue hardship on the User and City approves such alternate location in writing.

(B) Ample room shall be provided in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, including the sampling and measuring
equipment, shall be maintained at all times in a safe and proper operating condition at the expense of the User.

(C) The Director may require the User to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-63: SEARCH WARRANTS: If the Director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this Chapter or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search or seizure warrant from a court of competent jurisdiction. Such warrant shall be served in the manner allowed by law. (Ord. 2223, 1-9-97)

8-1-64: CONFIDENTIAL INFORMATION: Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of City, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-65: PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE: City shall publish annually, in the Official Newspaper, a list of the Users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. For the purposes of this Chapter, a Significant Industrial User (or any Industrial User which violates Subsections (C), (D), or (H) of this Section) is in significant noncompliance if its violation meets one (1) or more of the following criteria;

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

(B) Technical Review Criteria ("TRC") violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for each pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the
applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(C) Any other violations of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, longer-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(D) Any discharge of pollutant that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in POTW's exercise of its emergency authority under Section 8-1-72 of this Chapter to halt or prevent such a discharge;

(E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide within forty-five (45) days after the due date, required reports, such as baseline monitoring reports, ninety (90) day compliance reports, periodic self-monitoring reports and reports on compliance with compliance schedules;

(G) Failure to accurately report noncompliance; or

(H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local Pretreatment program. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-66: NOTIFICATION OF VIOLATION: When the Director finds that a User has violated or continues to violate any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that User a written Notice of Violation. Such Notice shall be conclusively deemed served upon its deposit in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to the address specified in the User's application, or such other address which has been delivered to City in writing. Within thirty (30) days after service of this notice, User shall similarly serve upon the Director an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of this plan in no way relieves the User of liability for any violation occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-67: CONSENT ORDERS: The Director may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents will include specific action to be taken by the User to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 8-1-69 and 8-1-70 of this Chapter and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the User. (Ord. 2223, 1-9-97)
8-1-68: **SHOW CAUSE HEARING:** The Director may order a User which has violated or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail, return receipt requested, at least fifteen (15) days prior to the hearing. Such notice may be served on any Authorized Representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User. (Ord. 2223, 1-9-97)

8-1-69: **COMPLIANCE ORDERS:** When the Director finds that a User has violated or continues to violate any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a time specified in the order. If the User does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User. (Ord. 2223, 1-9-97)

8-1-70: **CEASE AND DESIST ORDERS:** When the Director finds that a User has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User’s past violations are likely to recur, the Director may issue an order to the User directing it to cease and desist all such violations and directing the User to:

(A) Immediately comply with all requirements; and

(B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-71: **ADMINISTRATIVE FINES; ATTORNEYS FEES AND COSTS:**

(C) When the Director finds that a User has violated or continues to violate any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such User in an amount set from time to time by Resolution of the Council. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
(D) Unpaid charges, fines and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of twelve percent (12%) per year.

(E) Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Upon receipt of such request, the Director shall convene a hearing on the matter within fifteen (15) days thereafter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(F) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(G) To the fullest extent permitted by law, City shall be entitled to recover its reasonable attorney fees, court costs, and other expenses associated with enforcement of this Chapter, including without limitation, sampling and monitoring expenses and all other damages sustained by City as a direct result of a User's violation of the provisions of this Chapter. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 2964, 8-14-14; Ord. 3094, 9-22-16)

8-1-72: EMERGENCY SUSPENSIONS: The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or which causes an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

(A) Any User notified of a suspension of its discharge shall immediately stop or eliminate its discharge into the POTW. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Director shall take steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the User to recommence its discharge when the User has demonstrated to the satisfaction of City that the period of endangerment has passed, unless termination proceedings under Section 8-1-73 of this Chapter are initiated against the User.

(B) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit to the Director a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, prior to the date of any show cause or termination hearing under Sections 8-1-68 and 8-1-73 of this Chapter.

Nothing in the Section shall be interpreted as requiring a hearing prior to an emergency suspension under this Section.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)
TERMINATION OF DISCHARGE (NON-EMERGENCY): In addition to the provisions in Section 8-1-45 of this Chapter, any User that violates any of the following conditions is subject to discharge termination:

(A) Violation of wastewater discharge permit conditions;
(B) Failure to accurately report the wastewater constituents and characteristics of its discharge;
(C) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
(D) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or sampling; or
(E) Violation of the pretreatment standards in Sections 8-1-9 through 8-1-20 this Chapter.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 8-1-68 of this Chapter why the proposed action should not be taken. Exercise of this option by City shall not be a bar to, or a prerequisite for, taking any other action against the User.

INJUNCTIVE RELIEF: When the Director finds that a User has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, City may petition the Seventh Judicial District of the State of Idaho, Bonneville County, through the City Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Chapter on activities of the User. City may also seek such other action as is appropriate for legal or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

CIVIL PENALTIES:

(A) A User which has violated or continues to violate any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to City for a maximum civil penalty in an amount set from time to time by Resolution of the Council. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(B) To the fullest extent permitted by State law, the Director may recover reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the City.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation.
magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

(D) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 2964, 8-14-14; Ord. 3094, 9-22-16)

8-1-76: CRIMINAL PROSECUTION:

(A) A User which has willfully or negligently violated any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor.

(B) A User which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(C) A User which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter, wastewater discharge permit, or order issued hereunder or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this Chapter shall, upon conviction, be guilty of a misdemeanor. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 2964, 8-14-14)

8-1-77: REMEDIES NON-EXCLUSIVE: The provisions in Sections 8-1-65 through 8-1-83 of this Chapter are not exclusive remedies. City reserves the right to take any, all, or any combination of these actions against a non-compliant User. Enforcement in response to pretreatment violations will generally be in accordance with City’s enforcement response plan. However, City reserves the right to take other action against any User when the circumstances warrant. Further, City may take more than one enforcement action against any non-compliant User. These actions may be taken concurrently. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-78: PERFORMANCE BONDS: The Director may decline to issue or reissue a wastewater discharge permit to any User which has failed to comply with any provision of this Chapter, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such User first files a satisfactory bond, payable to City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance. (Ord. 2223, 1-9-97; Ord. 3094, 9-22-16)

8-1-79: LIABILITY INSURANCE: The Director may decline to issue or reissue a wastewater discharge permit to any User which has failed to comply with any provision of this Chapter, a previous wastewater discharge permit or order issued hereunder, of any other pretreatment standard or requirement, unless the User first submits proof that it has adequate general liability insurance or has provided other similar financial assurances sufficient to restore or repair damage to the POTW caused by its discharge. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)
8-1-80: TERMINATION OF UTILITY SERVICES: Whenever a User has violated or continues to violate any provision of this Chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, electric service, water service, or other public utility services to the User may be terminated in accordance with the procedures set forth in Section 8-5-17 of this Code. Service may be restored only upon proof that the User has corrected its violation of the provisions of this Chapter and has provided satisfactory assurances that such violation will not recur. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-81: PUBLIC NUISANCES: A violation of any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of this Code or State law governing such nuisances, including reimbursing City for any costs incurred in removing, abating, or remediying said nuisance. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-82: INFORMANT REWARDS: City may pay a reward in an amount set from time to time by Resolution of Council for information leading to the discovery of non-compliance by a User. In the event that the information provided results in an administrative fine or civil penalty levied against the User, City may, upon similar Resolution, authorize the disbursement of up to ten percent (10%) of the collected fine or penalty to the informant, provided however, a single reward payment may not exceed in an amount set from time to time by Resolution of the Council. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 2964; 8-14-14; Ord. 3094, 9-22-16)

8-1-83: CONTRACTOR LISTING: Users which are not compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to City. Existing contracts for the executory sale of goods or services to City held by a User found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of City. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-84: AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS: The following affirmative defenses may be established by a User against whom any enforcement action or remedy is sought.

(A) Upset:

(1) For the purposes of this Section, “upset” means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(2) An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of paragraph C of this Section are met.
(3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An upset occurred and the User can identify the cause(s) of the upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(c) The User has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(i) A description of the indirect discharge and cause of non-compliance;

(ii) The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and

(iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the non-compliance.

(4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(B) Prohibited Discharge Standards. A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 8-1-9 of this Chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) Bypass.
(1) For the purposes of this Section:

(a) "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(2) A User may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (3) and (4) of this Section.

(3) (a) If a User knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass, if possible.

(b) A User shall submit oral notice to City of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent recurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) (a) Bypass is prohibited, and the POTW may take an enforcement action against a User for a bypass, unless:

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The User submitted notices as required under paragraph three (3) of this Section.
(b) The POTW may approve an anticipated bypass, after considering its adverse
effects, if the POTW determines that it will meet the three (3) conditions listed
in paragraph (4)(a) of this Section.

(Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-85: SEWER USER SERVICE CHARGE: A monthly service charge for sewer service shall
be charged to all Users. All charges to Users, shall be calculated in a manner that ensures each User
will pay a fair share of the costs of operation, maintenance, and capital equipment replacement based
upon proportional usage of the sewer system and POTW. The rates established shall generate
sufficient revenue to defray the costs of operating and prudently managing the sewerage system,
including but not limited to: (a) capital costs; (b) operation and maintenance costs; (c) replacement
costs and reserves, and (d) debt service on bonded indebtedness.

City shall establish monthly rates for sewer service supplied by City in an amount set from time to time
by Resolution of the Council for the following:

(A) Monthly Non-Metered Residential Wastewater Rates (Inside City):

(1) Single-family dwellings and mobile homes (excluding separate apartment units within
such dwelling) – Per dwelling or unit;

(2) Duplex/Triplex – Per dwelling or unit;

(3) Apartment unit (tenant pays bill) – Per unit.

(B) Monthly Non-Metered Commercial Wastewater Rates (Inside City):

(1) Category 1 (Commercial Apartment Building where single bill for all tenants is paid by
landlord or manager) – Per unit;

(2) Category 2 (Bar, Church, Gym, Office Space, Retail, Salon, Shop, and Warehouse) –
Per business;

(3) Category 3 (Big Box Retail, Car Sales, Convenience Store, Day Care, Fast Food,
Medical Office) – Per business;

(4) Category 4 (Hall, Restaurant) – Per business;

(5) Category 5 (Hotel or Rest Home with twenty (20) rooms or less) – Per business;

(6) Category 6 (Hotel or Rest Home with more than twenty (20) rooms) – Per business.

(C) Monthly Non-metered School Wastewater Rate (Inside City): Elementary School, Junior High
School, High School, College and University – Per fifty (50) students or fraction thereof.
(D) All other non-classified businesses shall be placed into a monthly non-metered commercial wastewater category by the Water Division Superintendent based on anticipated interior water consumption.

(E) Monthly Metered Wastewater Rates (Inside City). The wastewater for customers receiving metered water service shall be a monthly base metered wastewater plus a monthly volumetric rate per each one thousand (1,000) gallons of water used; in an amount set from time to time by Resolution of the Council.

(1) Installations where a water meter is found to register both landscape irrigation as well as interior uses, an average monthly metered wastewater shall be calculated each September for the following year. The average monthly metered wastewater shall be determined by averaging the monthly metered water volumes for the four (4) months of December through March immediately prior, preventing landscape irrigation from inflating the monthly sewer bill. New installations without sufficient metered data shall be charged a non-metered commercial wastewater as defined above until such time that sufficient metered data is available.

(2) Installations where a water meter registers landscape irrigation only shall not be billed a monthly metered wastewater.

(Ord. 2357, 12-22-99; Ord. 3094, 9-22-16)

8-1-86: COMPUTATION OF INDUSTRIAL WASTE SERVICE CHARGE: Industrial waste service charges shall be based upon flow, biochemical oxygen demand (BOD), suspended solids (SS) and other reasonable factors that affect the cost of providing treatment services. (Ord. 2223, 1-9-97)

8-1-87: TRANSITION RATES FOR INDUSTRIAL USERS: Transition rates for industrial Users may be established by annual resolution of the Council, based upon the cost-of-service rate methodology set forth in the 1998 Rate Study prepared by CH2M Hill. Such rates shall be designed to transition over a period of not to exceed four (4) years, beginning in the year 2000. Transition to cost-of-service rates may occur at a different pace for each industrial User, depending upon the hardship associated with necessary adjustments towards cost-of-service based rates. (Ord. 2357, 12-22-99; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-88: (Repealed)

8-1-89: WOODRUFF AVENUE INTERCEPTOR: In addition to the unit charges established pursuant to Sections 8-1-85 through 8-1-87 of this Chapter, any future industry located such that industrial waste is discharged into the Woodruff Avenue Interceptor at a point north of the intersection of Ninth Street and St. Clair Road, will be required to repay their share of the EPA grant for the Woodruff Avenue Interceptor. The required pay back shall be in accordance with all Federal regulations, laws, and guidelines pertaining thereto. (Ord. 2358, 1-13-00; Ord. 3094, 9-22-16)

8-1-90: GREASE INTERCEPTOR: Whenever a building is used as a food service establishment or commercial kitchen, the owner or occupant shall provide a grease interceptor or a grease trap through which all waste containing fats, oils, or grease shall be drained. Such interceptor
or trap shall be designed and sized as outlined in Chapter 10 Section 1014 of the currently adopted edition of the Idaho State Plumbing Code, and shall only allow wastewater, which complies with this Chapter to be drained into the sanitary sewer system. (Ord. 3094, 9-22-16)

EXCEPTION: The requirements of Chapter 10 Section 1014 shall not apply when, in the judgment of the Director, or their nominee, the kitchen discharge does not contain or exceed the fats, oils, and grease limitations as outlined in the Local Limits, Section 8-1-12 of this Chapter. (Ord. 2223, 1-9-97); (Ord. 2609, 7-28-05; Ord. 2684, 12-14-06; Ord. 3094, 9-22-16)

8-1-91: INTERCEPTORS REQUIRED TO REMOVE HARMFUL INGREDIENTS: Grease, oil and sand interceptors or other adequate removal facilities shall be installed on the premises necessary to remove grease in excessive amounts, high concentration of blood, fruit, vegetable or grain liquors, milk wastes, or any flammable wastes, sand and other harmful ingredients. All interceptors shall be of a type and capacity approved by the Director and shall be so located as to be readily and easily accessible for cleaning and inspection. All interceptors shall be properly and regularly maintained by the owner or occupant. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06)

8-1-92: SEPTIC TANK WASTES:

(A) No person or entity shall haul septic tank waste for commercial purposes or discharge septic tank waste from any portable tank or storage container into the POTW unless such person or entity has a permit issued by the Director. Such permit shall be issued for a period of one (1) year and may be issued only upon submission of an application to the Director in such form as may be determined appropriate by the Director. The license fee for such permit shall be in an amount set from time to time by Resolution of the Council. Such permit shall be specific to the permittee and may not be sold or transferred to any other person or entity. The applicant shall, as part of the application, submit a list of all vehicles to be used for the purpose of hauling, transporting or discharging septic tank waste into the POTW and the permittee shall not use any vehicle or storage container not contained or included within such list.

(B) Septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, and at such times as are established by the Director. Such wastes shall consist of domestic sewage only, must meet or exceed the local limits and shall not otherwise violate any provisions of this Chapter. In no event shall any permittee haul, transport or otherwise discharge into the POTW any hazardous waste as defined by RCRA.

(C) Septic tank waste haulers must deliver to the Director a waste tracking form for every load of septic tank waste discharged into the POTW.

(D) Septic tank waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of waste.

(E) Fees for dumping hauled wastes will be established as part of the User fee system as authorized in Section 8-1-100 of this Chapter. (Ord. 2684, 12-14-06; Ord. 2964, 8-14-14)

8-1-93: (Repealed)
8-1-94: CLASSIFICATION OF USERS: For billing purposes, sewer users shall be classified and billed as follows:

(A) Residential

(B) Commercial

(C) Industrial

(Ord. 2357, 12-22-99)

8-1-95: DOMESTIC AND COMMERCIAL RATES OUTSIDE THE CITY: All charges for operation and maintenance shall be uniform for all domestic or commercial Users, whether said Users are located within or without the City. (Ord. 2223, 1-9-97)

8-1-96: BILLING, COLLECTION, AND TERMINATION OF UTILITY SERVICE: Billing, collection, and termination for utility service shall be processed pursuant to the City billing, collection, and termination policy established by Council Resolution. (Ord. 2223, 1-9-97; Ord. 3039, 11-24-2015)

8-1-97: PRETREATMENT CHARGES AND FEES: City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's pretreatment program which may include:

(A) Fees for wastewater discharge permit applications including the cost of processing such applications;

(B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;

(C) Fees for reviewing and responding to accidental discharge procedures and construction;

(D) Fees for filing appeals; and

(E) Other fees as City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines, and penalties chargeable by City. (Ord. 2684, 12-14-06; Ord. 3039, 11-24-2015; Ord. 3094, 9-22-16)

8-1-98: RECOVERY OF COSTS BY CITY: Any person who knowingly makes any false statement, representation, or certification in any application, record, report and plan or other document filed or required to be maintained pursuant to this Chapter, or who falsified, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Chapter shall be guilty of a misdemeanor. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3039, 11-24-2015)

8-1-99: FALSIFYING INFORMATION: Nothing herein is intended to create any private duty to any customer or discharger or create any private right of action on account of any failure by City, or its officers, employees, or agents to perform any duty or obligation set forth herein. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 3039, 11-24-2015; Ord. 3094, 9-22-16)
8-1-100: LIMITATION OF LIABILITY: Any person who violates this Chapter is guilty of a misdemeanor. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 2964, 8-14-14; Ord. 3039, 11-24-2015)

8-1-101: PENALTY: Any person who violates this Chapter is guilty of a misdemeanor. (Ord. 2223, 1-9-97; Ord. 2684, 12-14-06; Ord. 2964, 8-14-14; Ord. 3039, 11-24-2015)
CHAPTER 2
AIRPORT REGULATIONS AND FEES

SECTION:

8-2-1: Commercial Operations
8-2-2: Commercial Aircraft
8-2-3: Landing Fees - Commercial Aircraft
8-2-4: Rules and Regulations
8-2-5: Purpose of Fuel Flowage Fees
8-2-6: Definitions
8-2-7: Assessment of Fuel Flowage Fee
8-2-8: Collection of Fuel Flowage Fee
8-2-9: Failure to Collect Fuel Flowage Fee
8-2-10: Fuel Flowage Fees Fund
8-2-11: Disbursement of Funds

8-2-1: COMMERCIAL OPERATIONS: Any person who conducts any commercial operation from or upon the Idaho Falls Regional Airport, without having entered into a written lease or contract with the City, is guilty of a misdemeanor. The Council may by resolution adopted in accordance with Section 8-2-4 of this Chapter, establish regulations defining a "commercial operation" for the purposes of this Section. (Ord. 3003, 04-23-15)

8-2-2: COMMERCIAL AIRCRAFT: Any person who operates any aircraft for commercial purposes, from the Idaho Falls Regional Airport without having obtained a permit therefor from the City, is guilty of a misdemeanor. The Council may by resolution adopted in accordance with Section 8-2-4 of this Chapter establish regulations defining the term "commercial purposes" as used in this Section. (Ord. 3003, 04-23-15)

8-2-3: LANDING FEES - COMMERCIAL AIRCRAFT: Any person who operates an aircraft for commercial purposes and who lands the aircraft at the Idaho Falls Regional Airport shall be charged a landing fee in an amount set from time to time by Resolution of the Council for each aircraft landing. Any person who fails to pay such fee prior to takeoff or within twenty-four (24) hours after landing, whichever is sooner, shall be guilty of a misdemeanor, provided, however, any person regularly operating an aircraft for commercial purposes may enter into a contract with the City to pay such fees on a monthly basis, notwithstanding the time frames set forth herein. Each person obligated to pay a landing fee on a monthly basis shall deliver a certified report of the amount of the fees due the preceding month at the time the fees are paid. (Ord. 2346, 9-9-99; Ord. 2964, 8-14-14; Ord. 3003, 04-23-15)

8-2-4: RULES AND REGULATIONS: The Council may adopt reasonable operational rules and regulations for the operation of aircraft from the Airport, which rules and regulations shall be continuously posted in a conspicuous place at the Airport. Such regulations shall also be published in pamphlet form and shall be distributed free of charge to all persons requesting the same.

8-2-5: PURPOSE OF FUEL FLOWAGE FEES: The City Council finds and declares as follows:
(A) The City provides and maintains runways, taxiways, ramps, lights and runway lighting systems at the Airport and such services as runway, taxiway and lamp snow removal for all aircraft operating to or from, or otherwise using, the Idaho Falls Regional Airport, which facilities and services are funded in part by ad valorem property taxes, and

(B) Commercial aircraft operating to or from, or otherwise using, the Airport currently pay landing fees that defray a portion of the cost of providing such facilities, and

(C) General aviation aircraft currently use or benefit from such facilities and services, but do not pay landing fees;

(D) It is inequitable to fund the entire cost of providing and maintaining such facilities and services solely from revenues derived from ad valorem property taxes and commercial landing fees, and

(E) The need for such facilities and services and the cost of providing and maintaining the same are proportional to the size of the aircraft using the Airport and the frequency with which such aircraft use the Airport, and

(F) The fuel requirements of aircraft using the Airport are also proportional to the size of such aircraft and the frequency with which they use the Airport, and

(G) General aviation aircraft operating to or from, or otherwise using, the Airport require and use facilities and services provided and maintained by the City and such general aviation aircraft should therefore pay a portion of the cost thereof, and

(H) The City has the authority pursuant to Idaho Code Section 63-2201A to impose and cause to be collected fees for services which would otherwise be funded by ad valorem tax revenues. (Ord. 3003, 04-23-15)

8-2-6: DEFINITIONS: The following words and phrases shall have the meaning defined herein:

AIRPORT: The Idaho Falls Regional Airport (or “IFRA” or the “Airport” and formally known as “Fanning Field” or “Idaho Falls Municipal Airport”.)

COMMERCIAL AIRCRAFT: All commercially-owned aircraft which operate to or from or otherwise use, the Airport under contract with the City pursuant to which they pay commercial landing fees for their use of the Airport.

GENERAL AVIATION AIRCRAFT: All aircraft of any kind or nature which operate to or from, or otherwise use, the Airport, other than commercial aircraft.

8-2-7: ASSESSMENT OF FUEL FLOWAGE FEE: A fuel flowage fee shall be assessed upon each general aviation aircraft operating to or from, or otherwise using, the Airport and into which aviation fuel is dispensed at the Airport. The amount of the fuel flowage fee shall be in an amount as set from time to time by Resolution of the Council. (Ord. 2346, 9-9-99; Ord. 2964, 8-14-14)
8-2-8: COLLECTION OF FUEL FLOWAGE FEE: The fuel flowage fee shall be paid by the owner or operator of the aircraft into which the aviation fuel is dispensed at the time the fuel is dispensed and shall be collected by the fixed base operator or other person or entity dispensing the fuel. Fixed base operators or any other persons or entities who collect fuel flowage fees shall remit within five (5) days after the end of each calendar month all fuel flowage fees collected during said month to the Director of the Airport. All fixed base operators or other persons or entities dispensing fuel at the Airport shall, within five (5) days after the end of each calendar month, furnish to the Director a statement indicating the total number of gallons of fuel dispensed during the month to all aircraft, the total number of gallons of fuel dispensed to general aviation aircraft and the total amount of fuel flowage fees collected. (Ord. 3003, 04-23-15)

8-2-9: FAILURE TO COLLECT FUEL FLOWAGE FEE: It is unlawful for any person or entity to:

(A) Dispense any aviation fuel to any general aviation aircraft upon the Airport without collecting the fuel flowage fee assessed by this Chapter;

(B) Fail to remit the fuel flowage fees to the Director of the Airport as required by this Chapter;

(C) Fail to deposit amounts collected as fuel flowage fees in a separate bank account within two (2) business days following the date of the collection thereof;

(D) Commingle any amounts collected as fuel flowage fees with any other moneys or accounts of the person or entity collecting such fees;

(E) Use, apply or divert any amounts collected as fuel flowage fees with any other moneys or accounts of the person or entity collecting such fees;

(F) Fail to keep complete, accurate and truthful records which show the amount of aviation fuel sold at or upon the Airport, the amount of aviation fuel dispensed to general aviation aircraft and the amounts collected as fuel flowage fees, or to refuse to permit any authorized representatives of the City to inspect such records upon request during the normal hours of business operation;

(G) Submit to the Director of the Airport any report or statement regarding fuel flowage fees with knowledge the same is inaccurate, incomplete or untruthful. (Ord. 3003, 04-23-15)

8-2-10: FUEL FLOWAGE FEES FUND: A Fuel Flowage Fees Fund is hereby established into which shall be deposited all revenues derived from the payment of fuel flowage fees pursuant to this Chapter. All revenues deposited into the Fuel Flowage Fees Fund shall be disbursed only for the purposes set forth in Section 8-2-11 of this Chapter, when authorized by the City Council.

8-2-11: DISBURSEMENT OF FUNDS: Disbursement may be made from the Fuel Flowage Fees Fund only for the following purposes:
(A) The improvement and maintenance of all runways, taxiways, ramps, lights and runway lighting systems at the Airport; and

(B) Removal of snow and ice from the runways, taxiways and ramps at the Airport; and

(C) The construction, improvement and maintenance of such other facilities and such other facilities and other services at the Airport as are deemed by the City Council to be necessary for the operation of aircraft to and from the Airport and which are of direct benefit to general aviation aircraft.
CHAPTER 3
PARKS

SECTION:

8-3-1: Operation of Concession
8-3-2: Amusements
8-3-3: Planting or Removal of Shrubs
8-3-4: Alcoholic Beverages in Parks Prohibited
8-3-5: Unauthorized Application of Chemicals

8-3-1: OPERATION OF CONCESSION: No person shall sell or offer for sale any food, beverage, candy or goods of any kind, within a public park, outdoor recreation area, or any public parking lot adjacent thereto, except

(1) persons operating under a concession agreement approved by the City; or
(2) persons affiliated with a Special Event, as defined in this Chapter; or
(3) as authorized during a Permitted Event pursuant to this Chapter. (Ord. 2187, 10-12-95; Ord. 3044, 10-12-15)

8-3-2: AMUSEMENTS: No person shall operate or cause to be operated any amusement ride, device, mechanical or electronic game or machine, carnival, show or exhibit of any kind, for pecuniary gain in any public park, except persons operating under a concession or lease agreement approved by the Council.

8-3-3: PLANTING OR REMOVAL OF SHRUBS: No trees, shrubs or vines shall be planted in the parks of the City, nor shall any trees, shrubs or vines be cut down or removed therefrom, without the consent of the Director of Parks and Recreation.

8-3-4: ALCOHOLIC BEVERAGES IN PARKS:

(A) The terms defined below shall have the following meanings when used in this section:

ALCOHOLIC BEVERAGE: Beer, wine or liquor.

BEER: Any beverage obtained by the alcoholic fermentation of an infusion or decoction of barley, malt or other ingredients in drinkable water and which contains alcohol, as defined and regulated by the Idaho State Code.

CROWD MANAGER: A person who has been approved by the Idaho Falls Fire Marshal, or his or her designee, as a person with training or experience in fire prevention, evacuation methods, and other duties.

EVENT SPONSOR: An individual, partnership, association, corporation, limited liability company, or private organization of any kind who is an applicant for a Permitted Event.

LIQUOR: All kinds of liquor sold by and in a state liquor store of the State of Idaho.
LICENCED VENDOR: A person or business in possession of a current Idaho State, Bonneville County, and City License permitting the person or business to sell, distribute, and serve or supply beer or wine.

PERMITTED EVENT: An occurrence, festival, concert, sporting event, gathering, performance, or the like in or at a public park, outdoor recreation area or facility, or any public parking lot adjacent thereto, where alcoholic and non-alcoholic beverages, food, candy, and other goods are permitted to be served pursuant to this Chapter.

PROFESSIONAL SECURITY GUARD: A law enforcement officer or a guard employed by recognized private security firm.

SPECIAL EVENT: An occurrence, festival, concert, sporting event, gathering, performance, or the like in or at a public park, outdoor recreation area or facility, or any public parking lot adjacent thereto, where non-alcoholic beverages, food, candy, or other goods may be served and which is specifically approved of, for a limited duration, by the Director of Parks and Recreation or designee.

STATE LIQUOR STORE: Any liquor store or distributor established under and pursuant to the laws of the State of Idaho for the package sale of liquor at retail.

WINE: Any beverage containing not more than fourteen percent (14%) alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar whether or not other ingredients are added.

(B) Any person who possesses any alcoholic beverage while in any public park, outdoor recreation area or facility or any public parking lot adjacent thereto, unless otherwise authorized by this Code or the Idaho Code, is guilty of a misdemeanor.

(C) Notwithstanding Section (B) hereof, beer and wine may be possessed and consumed in any public park, outdoor recreation area or facility, or any public parking lot adjacent thereto pursuant to the following:

1. within the premises designated for any person holding a retail beer or wine license to sell or dispense beer or wine within such public park, outdoor recreation area or facility, or any other public parking lot adjacent thereto. The boundaries of such premises shall be conspicuously posted by such licensee or by the City upon or near such premises. Nothing in this Section shall prohibit such retail licensee or his agents, employees or suppliers from transporting beer or wine to the premises for sale or disposition, or
2. during a Permitted Event authorized by this Chapter.

(Ord. 2148, 8-4-94; Ord. 2650, 06-08-06; Ord. 3044, 10-12-15; Ord. 3195, 6-28-18)

8-3-5 PERMITTED EVENTS

(A) INTENT: This Permitted Event process is intended to allow the sale and consumption of beer and wine only (and not liquor), in certain designated locations within the city, pursuant to these Permitted Event regulations and is not intended to amend or expand this Code or any other applicable law or
regulation beyond the scope of the particulars of this Section or beyond the hours of the Permitted Event. Sanitary, health, litter, police, fire, alcohol vending, and other laws and regulations shall be unaffected by this Section. This Section shall not act as a waiver of any State, County, or local requirement of a permit or licensure related to sales and/or distribution of alcohol, including a requirement for a catering permit; a beer and wine permit for benevolent, charitable and public purpose events; or a winery sponsored event permit.

(B) APPLICATION FOR PERMIT: The applicant shall obtain an application for a permit from the City Clerk. Once an application for a permit has been submitted and the fee has been paid in an amount set from time to time by Resolution of the Council, the City Clerk shall review the application and determine whether or not the application is complete. If the City Clerk deems that the application is complete, and the applicant has met all conditions of this Section, the City Clerk shall issue a permit for the Event. If the application, in any respect, is incomplete, the City Clerk shall promptly notify the applicant and shall specify the items which the City Clerk has determined are not complete or which have not been provided pursuant to this Section. An application shall be made to this City Clerk in the form and manner prescribed by the City Clerk.

(C) LOCATION AND DURATION OF PERMITTED EVENTS:
1. A permitted event shall be allowed only in the following locations within the City:
   a. Noise Park
   b. The Pier at Snake River Landing
   c. Sandy Downs
   d. Civitan Plaza
   e. Sportsman’s Park The shelters and bandshell at Freeman Park, provided that the consumption areas do not extend beyond two hundred feet from the structures.
   f. Idaho Falls Park Zoo at Tautphaus Park,
   g. Tautphaus Park Multi-Use Shelter, including grassy area to the east of the shelter, which shall not include the fenced baseball fields or Rodgers Street, extending four hundred fifty (450) feet east from the shelter,
   h. Skyline Activity Center
   i. A closed public street, provided that the City Police Chief, or his or her designee, has approved the street closure for an event.

2. No Permitted Event shall be allowed:
   a. Where the alcohol sales and consumption area of the Permitted Event is within three hundred feet (300’) of a location reserved with the Parks and Recreation Department prior to an application for a Permitted Event where children are likely to be present, unless the alcohol sales and consumption area of the Permitted Event is either entirely screened from view or the
person reserving the relevant location has no objection to the location of the alcohol sales and consumption area.

b. Within two (2) hours of the termination of another Permitted Event held at the same location.

c. Where, in the reasonable judgment of the Chief of Police or the City Fire Marshall or their respective designees, a Permitted Event is likely to become a public nuisance.

(D) TERM OF EVENT PERMIT: A permit is valid only for the time period approved and shall expire immediately upon the completion of the Permitted Event. A permit, if issued, shall be for one (1) Permitted Event only. Appeal, denial, or revocation of a permit shall be made to the Council.

(E) EVENT PERMIT REQUIREMENTS: Each of the following shall be required for every Permitted Event:

1. LIABILITY AND INSURANCE:

   a. Not less than ten (10) days prior to the Permitted Event at which a licensed vendor will sell or dispense alcohol the following shall be done:

      1. The Event Sponsor(s) shall deliver to the City Clerk one (1) copy of written proof that the licensed vendor has current, paid up, off-premise liquor liability insurance in an amount not less than One Million Dollars ($1,000,000) combined single limits. Every off-premises liquor liability insurance policy provided shall include assault and battery coverage and defense costs coverage. The City shall be named as an additional insured on the insurance policy of every licensed vendor.

      2. The Event Sponsor(s) shall deliver to the City Clerk one (1) copy of written proof that the Event Sponsor(s) has obtained current, paid up, general liability insurance or special event insurance in an amount not less than One Million Dollars ($1,000,000) combined single limits. Such general liability insurance or special event insurance policy shall be primary to any other insurance related to the Permitted Event and to that of any potential party subject to a claim related to the Permitted Event.

      3. The Event Sponsor(s) shall deliver to the City Clerk the signed original of an agreement, with City to defend, hold harmless and indemnify the City, its agents, servants, employees, officers, and contractors from any and all claims, causes of action, or damages which may arise from the Permitted Event.

2. LICENSED ALCOHOL VENDORS:

   a. Unless otherwise specifically authorized in writing by the City Parks and Recreation Director at least ten (10) days prior to a Permitted Event, there shall be only one (1) licensed vendor of alcohol at a Permitted Event. The City shall play no role in determining which vendor(s) shall be selected to sell or dispense alcoholic beverages during the Permitted Event.

   b. All alcoholic beverages sold or dispensed at a Permitted Event shall only be sold or dispensed by a licensed alcohol vendor.
c. Every licensed alcohol vendor at a Permitted Event shall obtain and comply with all alcohol-related laws and regulations, including, but not limited to, the City requirement of a City catering permit; a State beer and wine permit for benevolent, charitable, or public purpose events; or a winery sponsored event permit.

d. The Event Sponsor shall:

1. **For events under 100 persons**

   Provide at least one (1) persons at the Permitted Event to check proper identification for those who shall purchase, receive, or consume alcohol during the Permitted Event. These persons shall be clearly identified and shall be stationed not less than ten feet (10’) from the vendor’s sales or dispensing location.

2. **For events over 100 but less than 500 persons**

   i. Provide at least two (2) persons at the Permitted Event to check proper identification for those who shall purchase, receive, or consume alcohol during the Permitted Event. These persons shall be clearly identified and shall be stationed not less than ten feet (10’) from the vendor’s sales or dispensing location, and

   ii. **provide at least two (2) Professional Security.** The Professional Security Guards shall be clearly identified as such and shall be on duty at all times alcohol is being sold, served, or consumed during a Permitted Event. The Event Sponsor(s) shall have sole discretion on who will provide security at the Permitted Event and shall be responsible for all payment and costs associated with such security services.

3. **For events over 500 persons**

   i. Provide at least two (2) persons at the Permitted Event to check proper identification for those who shall purchase, receive, or consume alcohol during the Permitted Event. These persons shall be clearly identified and shall be stationed not less than ten feet (10’) from the vendor’s sales or dispensing location, and

   ii. **provide at least two (2) Professional Security and an additional Professional Security Guard for every additional 500 persons the event host anticipates.** After reviewing the event’s security plan, the Park and Rec Director and Police Chief, or their designee, may require additional security if the event poses a reasonable concern for public safety that can be addressed with additional security. In evaluating risk, the Park and Rec Director and Police Chief may consider past event history, similar events, and external factors that may affect the event.

4. **For events over 1000 persons,**
i. The event sponsor must meet the same identification checking and security requirements as events over 500 persons, and

ii. The event sponsor must also comply with the International Fire Code’s requirement to provide one (1) Crowd Manager per every 250 persons. If approved by the Idaho Falls Fire Marshal, or his or her designee, a Professional Security Guard may be used to satisfy the International Fire Code’s Crowd Manager Requirements.

5. The Professional Security Guards required under this section shall be clearly identified as such and shall be on duty at all times alcohol is being sold, served, or consumed during a Permitted Event. The Event Sponsor(s) shall have sole discretion on who will provide security at the Permitted Event and shall be responsible for all payment and costs associated with such security services.

3. SALES AND CONSUMPTION OF ALCOHOL:

a. Not less than ten (10) days prior to the Permitted Event at which the licensed vendor will sell or dispense alcohol, the Event Sponsor(s) shall deliver to the City Clerk three (3) copies of a site map which shall be drawn to show the locations of:

1. the licensed vendor within the Permitted Event;
2. the Permitted Event boundary barricade, sales and alcohol dispensing area, entry and exit points;
3. identification checking station; and
4. food and products sales and service areas.

Said site design and any subsequent alterations shall be approved in writing by the City Parks and Recreation Director, or his/her designee, and by the Chief of Police prior to the Permitted Event.

b. All alcohol sales, dispensing, and consumption shall only take place inside the approved alcohol sales, dispensing, and consumption area(s) designated by the Event Sponsor(s) and as shown on the approved site map required. Alcohol shall only be sold or dispensed for not more than a total of five (5) hours during a Permitted Event.

c. The Event Sponsor shall issue a tamper and fraud-resistant wristband to persons who shall purchase, receive, or consume alcohol during the Permitted Event after verifying that person’s proper identification. The City Park and Recreation Director shall issue guidelines and approve an Event Sponsor’s wristbands as tamper and fraud-resistant.

d. No person shall carry or consume an alcoholic beverage within the location of the Permitted Event which is not purchased or dispensed from a licensed vendor at the Permitted Event. Consumption of alcohol outside of the approved sales and consumption area(s) shall be considered a violation of the City’s open container ordinance.

e. The designated alcohol sale, dispensing, and consumption area(s) shall be designated physically from the rest of the Permitted Event location by signage which shall visually
indicate the sale, dispensing, and consumption area. Individual signs shall visually warn that alcohol must be consumed within the consumption area and must be approved by the Special Event Coordinator. Signs must be placed within fifty (50) feet of each other where there is no physical barricade separating consumption area from the rest of the Permitted Event, in order to create a visual boundary.

f. Food and non-alcoholic sales and service may be located inside and/or outside of the approved barricade within the Permitted Event location.

g. All alcohol shall be dispensed in and consumed from its original container. Such container shall be a readily identifiable container not more than sixteen ounces (16 oz.) in size and shall not bear a logo for a non-alcoholic beverage.

h. The City Police Chief, City Fire Marshall, City Park and Recreation Director, or their respective designees are hereby empowered to order the immediate cessation of all or part of the activities associated with a Permitted Event at any time it is determined that there is a violation of this Code or the Idaho Code. There shall be no appeal from a determination by the Police Chief, City Fire Marshall, City Park and Recreation Director, or designee(s) decision to terminate all or part of the activities associated with a Permitted Event.

(E) FAILURE TO COMPLY

Any person, firm, or corporation, whether as principal, agent, or employee or otherwise that shall fail to comply with this Section shall be guilty of a misdemeanor and upon conviction thereof shall be punished as set forth in the Idaho Falls City Code. Failure to comply with this Section may also result in denial of subsequent Permitted Events for a period of not less than five (5) years. (Ord. 3044, 10-12-15; Ord. 3195, 6-28-18)

8-3-6: UNAUTHORIZED APPLICATION OF CHEMICALS: No person shall, without proper authority, apply any chemical to any lawn, shrub, tree or ornamental plant located within any public park, including, without limitation, the unauthorized application of a chemical for the purpose of collecting worms. (Ord. 2187, 10-12-95; Ord. 3044, 10-12-15)
CHAPTER 4
WATER SERVICE

8-4-1: Purpose
8-4-2: Definitions
8-4-3: Exclusive Management and Control
8-4-4: Granting of Franchise Prohibited
8-4-5: City Not Liable for Damages
8-4-6: Duties of Superintendent
8-4-7: Right to Turn Off Water
8-4-8: Waste Prohibited
8-4-9: Mayor May Limit Use of Water
8-4-10: Inspection of Premises
8-4-11: Permits and Service Connection Fees
8-4-12: Extension of Water Mains Within City
8-4-13: Extension of Water Mains Outside City
8-4-14: Water System Fees
8-4-15: Water Line Capital Improvement Fund
8-4-16: Disbursement of Water System Capital Improvement Funds
8-4-17: Installation and Maintenance
8-4-18: Arrangement of Service Pipes
8-4-19: Branch Service
8-4-20: Permit Required
8-4-21: Customer Line Maintenance
8-4-22: Permit to do Plumbing
8-4-23: Service Call Charge
8-4-24: Tampering Unlawful
8-4-25: Authority to Place Meter
8-4-26: Ownership of Meters
8-4-27: Maintenance of Meters
8-4-28: Meters; Location and Access
8-4-29: Billing Periods
8-4-30: Billing, Collection, and Termination of Utility Accounts
8-4-31: Water Rates, Fees
8-4-32: Water Rates Outside City
8-4-33: Meter Rates for Multiple Meters
8-4-34: Service Outside City
8-4-35: Fire Service Connection
8-4-36: Fire Hydrants
8-4-37: Unlawful Contamination or Cross-Connections
8-4-38: Backflow Prevention Devices
8-4-39: Inspection of New Construction
8-4-40: Inspection of Existing Buildings, Structures or Improvements and Termination of Water Supply
8-4-42: Inspection of Existing Buildings, Structures or Improvements and Termination of Water Supply

8-4-1: PURPOSE: The purpose of this Chapter is to:

(A) Establish reasonable rules and regulations for the operation of the Water Division of the City.

(B) To establish reasonable fees to be charged to customers receiving water service and provide fair, orderly and efficient procedures for collection and termination of delinquent accounts.

(C) To establish a fair and equitable means of having persons who hook into and receive a direct and immediate benefit from existing water mains by requiring them to participate in the capital cost of water mains fronting upon their property and which have been constructed at taxpayer expense or from revenues derived from the operation of the water system.

(D) To establish a fair and equitable charge for the actual cost of materials and labor expended by the City whenever City crews install water service for a customer.

(E) To protect the public health and welfare by controlling cross-connections or other sources or potential sources of contamination to the City water supply.

(F) To provide a clean, efficient and adequate water system for the residents of the City. (Ord. 3003, 04-23-15)

8-4-2: DEFINITIONS: Certain terms used in this Chapter shall have the meanings ascribed below:

APARTMENT: Any building or portion thereof which is designed, built, rented or leased, let, or hired out to be occupied or which is occupied as the home or residence of four (4) or more families living independently of each other and doing their own cooking within the premises.

BACKFLOW: The flow, other than in the intended direction of flow, of any non-potable waters, foreign liquids, gases or harmful or offensive substances into the City water supply as a result of reduced, negative, or back pressure.

BACKFLOW PREVENTION ASSEMBLY: A testable apparatus which prevents backflow.

BACKFLOW PREVENTION DEVICE: A non-testable device which prevents backflow.

BAR: A business whose principal activity is serving alcoholic beverages, but not prepared meals, on site.

BIG BOX RETAIL: A very large retail store with more than ten thousand (10,000) gross square footage.

CAR SALES: A business conducting the sale of automobiles where the building contains a wash bay; or a business involving the repair also includes auto body repair shops.
CHURCH: A building used for public religious worship.

CITY WATER SUPPLY: Potable water provided by the City to its customers through the various components of the City Water System.

CITY WATER SYSTEM: All components that are owned and maintained by the City through which potable water is supplied to City customers, including, but not limited to, wells, pumps, water main, water services, valves, and fire hydrants.

CONVENIENCE STORE: An automobile service station consisting of a building small retail floor area and which has fuel dispensing pumps.

CROSS-CONNECTION: Any existing or potential physical arrangement whereby the City water system is connected with any other water supply system, sewer, drain, conduit, pool, storage reservoir or any other source of water supply which contains or may contain contaminated water, chemicals, sewage or other waste or liquids which may be harmful to human health or which may deleteriously affect the City water supply.

CURB STOP: The service line valve owned by the City and located near the customer's property line.

CUSTOMER: Any individual, partnership, business entity, or corporation desiring to receive potable water (in any amount) from the City water system.

CUSTOMER LINE: The pipe, valves, and fittings leading from the curb stop or any water meter pit to or into the premises or property served.

DAY CARE: A place or facility providing care and supervision for compensation of children not related by blood or marriage to the person or persons providing the care in a place other than the child's or adult's own home or homes.

DUPLEX/TRIPLEX: A dwelling unit which is physically attached to or shares a common party wall with up to two (2) additional dwelling units and which has open space on at least two sides.

FAST FOOD RESTAURANT: A restaurant which possesses all three of the following characteristics: 1) all food orders are placed at a counter, 2) drive-thru window service, and 3) meals are served in paper, plastic, or other types of disposable materials.

GYM: A business where physical exercises, dance, martial arts, or other physical activities are performed inside.

HALL: a large room or theater for meetings, concerts, or other events.

HOTEL: Any building used, rented, or hired out to be occupied on a daily or weekly basis for sleeping purposes by guests.

MEDICAL OFFICE: An institution providing health or veterinary service or medical, surgical or custodial care of the sick or injured.
METER: A water meter and its enclosure, valve(s), and related appurtenances.

OFFICE: A room, set of rooms, or building used for providing a service or as a place for commercial, professional, or bureaucratic work.

OPEN HOSE: The use of water through a hose or pipe without a nozzle, sprinkler, or other flow limiting device.

REST HOME: A building for the care and lodging of elderly or incapacitated persons.

RESTAURANT: A food service establishment where people pay to sit and eat meals that are prepared, cooked and served on the premises.

RETAIL: A building or unit providing the sale of goods to the public in relatively small quantities for use or consumption rather than for resale.

SALON: An establishment where a hairdresser or beautician conducts business.

SCHOOL: An institution dedicated to the education of children, teens, and adults differentiated as follows:
   - Elementary School: Grades K through 6;
   - Junior High School: Grades 7 through 8;
   - High School: Grades 9 through 12;
   - College or University: Post High School education

SERVICE LINE: The water pipe, valve(s), and fittings from the water main up to and including the curb stop and any water meter pit.

SHOP: A building or unit where things are manufactured or repaired, typically consisting of a small office accompanied by a larger work space.

SINGLE-FAMILY DWELLING: A detached dwelling unit, including manufactured or mobile homes, designed for or occupied exclusively by one (1) household.

WAREHOUSE: A building or unit where materials, manufactured goods, or possessions are stored.

WATER MAIN: The publicly-owned water pipe in a street, road, alley, or public utility easement.

WATER SERVICE: Supply of water through the City water system to a structure, unit, parcel, or lot for the end use of a customer. (Ord. 3095, 92216)

8-4-3: EXCLUSIVE MANAGEMENT AND CONTROL: City shall have exclusive control and management of City water system and shall have exclusive management and control of the supply and distribution of water to the inhabitants thereof. City may make such rules and regulations as are necessary for the complete management, control, distribution, and supply of water within and without the City. (Ord. 3095, 92216)
8-4-4: GRANTING OF FRANCHISE PROHIBITED: No person shall be granted any franchise or permit to furnish or supply any inhabitant within the City any water for domestic or culinary use or for sprinkling of lawns and gardens within any portion thereof where the water mains have been extended or may hereafter be extended so as to supply said property with water. (Ord. 3095, 92216)

8-4-5: CITY NOT LIABLE FOR DAMAGES: City shall not be liable for damages caused by interruptions of water supply, scarcity of water, accidents to water works or mains, or during the time of alterations, additions or repairs or for any other unavoidable causes. Nothing herein is intended to create any private duty to any customer or create a private right of action against City, on account of any failure by City or its officers, agents, or employees, to provide water service or comply with the provisions of this Chapter. (Ord. 3095, 92216)

8-4-6: DUTIES OF SUPERINTENDENT: The Superintendent of the Water Division under the direction of the Director of Public Works shall supervise and manage the Water Division including all supply and distribution lines with associated appurtenances, wells, pumps, tanks, and fire hydrant facilities. (Ord. 3003, 04-23-15; Ord. 3095, 92216)

8-4-7: RIGHT TO TURN OFF WATER: The Superintendent of the Water Division may turn off water within the City water system when deemed necessary to maintain, protect, or repair the water system, for non-payment, or when ordered to do so by the Mayor or Council. (Ord. 3003, 04-23-15; Ord. 3095, 92216)

8-4-8: WASTE PROHIBITED: It shall be unlawful for any water user to waste water or allow it to be wasted by improper use or by faulty facilities. Irrigation by open hoses is prohibited. (Ord. 3095, 922-16)

8-4-9: MAYOR MAY LIMIT USE OF WATER: In times of, or in anticipation of, scarcity of water, or when the Water Division is unable to furnish a sufficient supply of water, the Mayor may, by public proclamation limit the use of water to such extent as may be necessary for the public good. Such proclamation shall be published in two (2) consecutive issues of the official newspaper, and after such publication, the proclamation shall have the same force and effect as a City ordinance. (Ord. 3003, 04-23-15; Ord. 3095, 92216)

8-4-10: INSPECTION OF PREMISES: Free access for inspection shall, upon such reasonable notice as the circumstances permit, be allowed to the Superintendent of the Water Division or to any other authorized person to all places supplied with water from City water system. (Ord. 3003, 04-23-15; Ord. 3095, 92216)

8-4-11: PERMITS AND SERVICE CONNECTION FEES: It shall be unlawful to install, alter or connect any customer line within City to any water line within City without first obtaining a permit from City and paying the service connection fees set forth in this Chapter. (Ord. 3095, 9-22-16)

8-4-12: EXTENSION OF WATER MAINS WITHIN CITY: The Water Division or the Council may extend water mains within City at City’s expense whenever, in their sole discretion, such extension is necessary for the health, welfare, or safety of the residents of City, provided however nothing herein shall require that such extension be made at City expense. City may require any customer desiring water service to install at the customer’s expense a water main along the entire frontage of such
customer’s property. City may also require the customer to submit design drawings and specifications prior to the commencement of the construction of such extension. (Ord. 3003, 04-23-15; Ord. 3095, 9-22-16)

8-4-13: EXTENSION OF WATER MAINS OUTSIDE CITY: Water mains shall not, without the approval of the Council be extended outside the corporate limits of City, unless adequate excess water is available for such service. Such agreements shall specifically reserve the right to terminate such service without cause at any time upon at least thirty (30) days advance written notice. (Ord. 3095, 9-22-16)

8-4-14: WATER SYSTEM FEES:

(A) Purpose. The purpose of this Section is to establish an equitable system of charging new customers for the impact or burden created whenever they enlarge an existing water service or connect a new water service to the existing wells, storage tanks, pumps, outbuildings, and appurtenances of City water system, all of which were funded from revenues of City water system or paid with revenues derived from ad valorem taxes. City recognizes the inherent inequity of requiring existing customers or taxpayers to bear the entire cost of acquiring or building new facilities, or of utilizing excess capacity with existing facilities, in order to meet the needs of such new development. The Council hereby finds and recognizes the relationship between the nature of the uses of property and the impact thereof upon the City water system. The Council also finds that customers who connect to a water main located adjacent to their property receive a direct benefit from such water mains, which benefit is directly proportional to the frontage of the water main along their property. The Council further finds that it is fair and equitable to charge a water main installation charge for customers who connect to such mains in order to fund a portion of the cost incurred by City in installing such mains.

(B) Water Service Connection Fees. A water service connection fee shall be collected from any person requesting connection to the water system for any new building, structure, irrigated surface, or water feature, or for any existing building or use for which a change in occupancy or use, as defined under the current Building Code adopted by the City, is made and for which a new or larger water service line is installed. Notwithstanding the foregoing, no water service connection fee shall be charged for connection of water service solely for fire protection services. Such water service connection fee shall be in an amount set from time to time by Resolution of the Council.

(C) Water Main Connection Charge. Before connecting to any water main constructed in whole or in part at City expense, all persons desiring such connection shall pay a water main connection charge in an amount set from time to time by Resolution of the Council per front foot of property owned by such person and fronting upon a street, public right-of-way, or public utility easement within which a water main is located. Such charge shall be in addition to the water service connection fees set forth above. Despite the foregoing, if any person requests annexation to the City and as part of such annexation also requests connection to such water main, then the fee shall be due in full at the time such property is annexed to City. If any such property is located upon a corner or is bounded by two (2) or more streets in which a water main is located, the calculation for the fee shall be based upon the frontage of the longest street.
in which a water main is located. Location of a canal between such property and street, public utility easement, or public right-of-way shall not relieve property owner from paying a water main connection charge. All water mains within City shall be deemed to have been constructed in whole or in part at City expense, unless the applicant presents written evidence conclusively demonstrating such main was constructed entirely from private monies or was constructed entirely with funds from a state or federal grant. If any person constructs a water main entirely at their expense, the City may, by written agreement, pay over to such person all water main connection charges collected by City from any other person who subsequently connects to such water main (Ord. 2753, 5-22-08; Ord. 2964, 8-14-14; Ord. 3095, 9-22-16)

8-4-15: WATER SYSTEM CAPITAL IMPROVEMENT FUND: A Water System Capital Improvement Fund is hereby established into which all revenues derived from water system fees as set forth in this Chapter shall be deposited. Expenditures from this fund shall be made only for the purposes set forth in Section 8-4-16 of this Chapter when authorized by the Council. (Ord. 3095, 9-22-16)

8-4-16: DISBURSEMENTS OF WATER SYSTEM CAPITAL IMPROVEMENT FUNDS: Disbursements may be made from the Water System Capital Improvement Fund for the following purposes only:

(A) Construction and installation of City water wells.

(B) Construction, installation, and extension of City water mains, including costs of construction of mains with extra capacity.

(C) Payment of principal and interest on any revenue bond or bonds issued by City to defray the cost of construction, extension, or betterment of City water system.

(D) Reimbursement of water main connection charges to any developer who has constructed that portion of a water main for which a water main connection charge has been charged by City. (Ord. 3095, 9-22-16)

8-4-17: INSTALLATION AND MAINTENANCE: All service lines and connections from the water main to and including the curb stop any meter pit shall be installed by a private contractor hired by the customer in accordance with current City standards and specifications, and shall be inspected, maintained, owned, and exclusively controlled by the Water Division. (Ord. 2267, 3-12-98; Ord. 2964, 8-14-14; Ord. 3095, 9-22-16)

8-4-18: ARRANGEMENT OF SERVICE PIPES: The service lines must be so arranged that the water supply to each building, place of business, dwelling unit, or tract of land (whether created lawfully or unlawfully) shall be controlled by a separate curb stop placed at or near the property line of the premises served, unless permission for a different arrangement is first authorized in writing by the Water Division. (Ord. 3095, 9-22-16)

8-4-19: BRANCH SERVICE: No customer line shall serve more than one (1) customer. Where an existing customer line provides service to several customers, City may terminate water service until a separate customer line (and, if necessary, service line) is provided at the owner’s expense. If City does
not terminate service to such existing services, the established rate shall be charged for each customer receiving service from the existing line.

(Ord. 3003, 04-23-15; Ord. 3095, 9-22-16)

8-4-20: PERMIT REQUIRED: No person shall dig into the streets or under the sidewalk for the purpose of laying, removing or repairing any water line without first obtaining a permit issued in accordance with Chapter 7 of this title. (Ord. 3003, 04-23-15; Ord. 3095, 9-22-16)

8-4-21: CUSTOMER LINE MAINTENANCE: All water users shall at their own expense keep their customer lines, connections, and other apparatus in good repair and in a condition that avoids waste of water. Customer water lines that become frozen are the responsibility of the customer, provided the City may thaw the same and charge the customer for the fair and reasonable costs therefor. (Ord. 3095, 9-22-16)

8-4-22: PERMIT TO DO PLUMBING: No plumber or other person shall make any connections to a City main or make alterations in any conduit, pipe, or other fixture connecting thereto, or connect pipes where they have been disconnected, or turn water off or on at the curb stop supplying any premises without first obtaining a plumbing permit from the City. If such work requires excavation within a public right-of-way, such person shall also obtain a permit pursuant to this Code. (Ord. 3095, 9-22-16)

8-4-23: SERVICE CALL CHARGE: The Water Division Superintendent may assess and collect a service charge, in an amount not to exceed the actual cost to City, for service calls which are requested on weekends or legal holidays or during a time other than normal working hours and which are only for the convenience and benefit of the customer, or which are necessitated because of plumbing which does not meet the requirements of the current Plumbing Code adopted by the City. (Ord. 3095, 9-22-16)

8-4-24: TAMPERING UNLAWFUL: It shall be unlawful to damage, adjust, or tamper with any portion of the City Water System or appurtenances, whether located upon public or private property, without having first obtained the express permission of City. If any person damages the water system or in any way causes City expenses as a result of such unlawful acts, City may assess and collect the same from the person committing the same, or from the parent or guardian of any minor who commits such acts. Such amounts may be included upon the customer's regular monthly billing statement for water service, and upon the customer's failure or refusal to pay the same, water service may be terminated in accordance with the procedures set forth in this Chapter. (Ord. 3095, 9-22-16)

8-4-25: AUTHORITY TO PLACE METER: The Water Division Superintendent may, in their sole discretion, place a meter on any service line and change the method of billing from a flat rate to a metered rate.

(Ord. 3003, 04-23-15; Ord. 3095, 9-22-16)

8-4-26: OWNERSHIP OF METERS: All water meters used by City for the billing of water consumption shall remain the property of City and may be removed or replaced by the Water Division at any time. (Ord. 3095, 9-22-16)

8-4-27: MAINTENANCE OF METERS: The Water Division shall maintain and repair all meters used by City for the billing of water consumption. Where replacement, repair, or adjustment of any meter is rendered necessary by the act, neglect or carelessness of the owner or occupant of any
premises, any expense incurred by the Water Division thereby shall be charged against and collected from the customer, and water service may be discontinued until the meter is repaired, replaced, or adjusted. (Ord. 3095, 9-22-16)

8-4-28: METERS; LOCATION AND ACCESS: Meters shall be located near the customer's property line or within the structure served. The customer shall keep the area adjacent to the meter free from trees, shrubbery, or other obstructions and shall allow the City access to the meter during normal working hours of any day of the week, except weekends and legal holidays. (Ord. 3003, 04-23-15; Ord. 3095, 9-22-16)

8-4-29: BILLING PERIODS: All regular billing periods shall be on a monthly basis. Premises occupied for any portion of a month shall be charged the established rate for the entire month. (Ord. 3003, 04-23-15; Ord. 3095, 9-22-16)

8-4-30: BILLING, COLLECTION, AND TERMINATION OF UTILITY SERVICE: Billing, collection, and termination for utility service shall be processed pursuant to City billing, collection, and termination policy established by Council Resolution. (Ord. 3095, 9-22-16)

8-4-31: WATER RATES, FEES: City shall establish monthly rates for water service supplied by City in an amount set from time to time by Resolution of the Council for the following:

(A) Monthly Non-Metered Residential Water Rates (Inside City):

(1) Single-family dwellings and mobile homes (excluding separate apartment units within such dwelling) – Per dwelling or unit;
(2) Duplex – Per dwelling or unit;
(3) Apartment unit (tenant pays bill) – Per unit.

(B) Monthly Non-Metered Commercial Water Rates (Inside City):

(1) Category 1 (Commercial Apartment Building where single bill for all tenants is paid by landlord or manager) – Per unit;
(2) Category 2 (Bar, Church, Gym, Office Space, Retail, Salon, Shop, and Warehouse) – Per business;
(3) Category 3 (Big Box Retail, Car Sales, Convenience Store, Day Care, Fast Food, Medical Office) – Per business;
(4) Category 4 (Hall, Restaurant) – Per business;
(5) Category 5 (Hotel or Rest Home with twenty (20) rooms or less) – Per business;
(6) Category 6 (Hotel or Rest Home with more than twenty (20) rooms) – Per business.

(C) Monthly Non-metered School Water Rate (Inside City): Elementary School, Junior High School, High School, College and University – Per fifty (50) students or fraction thereof.

(D) All other non-classified businesses shall be placed into a monthly non-metered commercial water rate category by the Water Division Superintendent based on anticipated interior water consumption.
(E) Monthly Non-metered Residential Irrigation Water Rate:

(1) Single-family dwellings and mobile homes (excluding separate apartment units within such dwelling) – Per dwelling or unit or separately owned landscape parcel;
(2) Duplex – Per dwelling or unit;
(3) Apartment unit (tenant pays bill) – Per unit.

(F) Monthly Non-metered Commercial Irrigation Water Rate (All Commercial Categories, Private Parks, Privately Maintained Common Areas or Parcels) – Per one hundred (100) square feet of landscape area.

(G) Monthly Non-metered School Irrigation Water Rate – Per acre or fraction thereof.

(H) Monthly Metered Water Rates (Inside City). The rate for customers receiving metered water service shall be a monthly base metered water rate (calculated on the size of the meter) plus a monthly volumetric rate per each one thousand (1,000) gallons or water used; in an amount set from time to time by Resolution of the Council.

(I) Monthly Idaho Department of Environmental Quality (IDEQ) Water Primacy Fee – Per dwelling, unit, business, or metered connection. (Ord. 3095, 9-22-16)

8-4-32: WATER RATES OUTSIDE CITY: Monthly rates charged for water furnished by City to customers outside City limits, whether metered or non-metered, shall be in an amount set from time to time by Resolution of the Council.(Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-33: METER RATES FOR MULTIPLE METERS: Where an individual consumer is supplied with water through more than one (1) metered service, charges shall be computed separately for each individual meter. (Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-34: SERVICE OUTSIDE CITY: The Water Division Superintendent shall not provide any water service to any consumer whose residence or place of business is outside the corporate limits of the City unless a written service contract has been executed between the consumer and City. (Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-35: FIRE SERVICE CONNECTION:

(A) All fire service connections between water mains and property lines shall be installed by a private contractor hired by the customer, in accordance with current City standards and specifications, and shall be inspected, maintained, owned and exclusively controlled by the Water Division, at the expense of the owner or occupant of the premises served. At the time of making application for service, the applicant shall file with the Water Division detailed plans showing all piping installed or to be installed for fire protection, all fire gates, automatic sprinklers, and all other outlets, gates, or appurtenances. Each fire service connection shall have a gate valve with an adequate valve box installed between the main and the property line of the premises served. No fire service connection larger than six inches (6”) shall be installed without special permission from the Council. No customer receiving metered water service shall use a fire service connection for domestic purposes or any purpose other than for fire protection. If the Water Division Superintendent finds a fire connection is being used for any
purpose other than for fire protection upon the premises, the owner or occupant shall be notified and if such improper conditions are not corrected within ten (10) days, water service to the entire premises may be shut off until proper adjustments are made.

(B) All fire service connections shall conform to the requirements of this Section and Section 8-4-38 of this Code. However, if a customer requests the use of one (1) service line for both the culinary and fire protection connections, the customer shall submit drawings or specifications which identify the line sizes for each culinary or fire service connection to each site for which the connection is requested. (Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-36: FIRE HYDRANTS: All public fire hydrants shall be maintained by the Water Division. Employees of the Public Works, Police, and Fire Departments shall have free access to such hydrants. No other person shall draw or attempt to draw any water from a fire hydrant unless they have the written permission from one of the Directors of such departments. The Water Division Superintendent may specify from which hydrants water may be drawn and may assess an equitable charge for the consumption or use of water drawn from a fire hydrant. (Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-37: UNLAWFUL CONTAMINATION OR CROSS-CONNECTIONS: It shall be unlawful for any person to introduce or permit the introduction of pollution or contamination of any kind into the City water supply system. It shall be unlawful for any person to install or maintain any cross-connection within City. (Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-38: BACKFLOW PREVENTION DEVICES AND ASSEMBLIES:

(A) Backflow prevention devices and assemblies shall be installed by the proper owner, tenant, occupant, lessee, or other user of City water where the nature and extent of the activities conducted or the materials used or stored on the premises would present a hazard to the public health or be deleterious to the quality of the City water supply should a cross-connection occur. Even though cross-connections may not exist at the time, backflow prevention devices and assemblies shall be installed under circumstances including, but not limited to the following:

1. Premises having an auxiliary water supply;
2. Premises having internal cross-connections that are not correctable, or having intricate plumbing arrangements which make it impracticable to ascertain whether or not cross-connections exist;
3. Premises where entry is restricted so that inspections for cross-connections cannot reasonably be made;
4. Premises having a history of cross-connections being established or reestablished;
5. Premises on which any substance is handled under pressure so as to permit the entry of substance into the public water supply;
6. Premises having pumps or devices which may affect the pressure within any line connected to the City water supply.
7. Whenever water is drawn from a public fire hydrant.

(B) All backflow prevention devices and assemblies shall be installed by the property owner at his expense, and shall be of a type commensurate with the degree of hazard which exists or which could exist. An air-gap separation or a reduced pressure principle backflow prevention device
shall be installed where the public water supply may be contaminated with sewage, industrial waste of a toxic nature, or other contaminant which could cause a public health hazard. In all other cases where the contaminant may be objectionable but not hazardous to the public health, a double check valve assembly, an air-gap separation, or a reduced pressure principle backflow prevention device shall be installed. All backflow prevention devices and the installation thereof shall be approved by the Water Division Superintendent or their duly authorized representative.

(C) All backflow prevention assemblies installed pursuant to this Chapter, except atmospheric vacuum breakers, shall be inspected and tested by a certified tester at the time of initial installation and annually thereafter, or more often if deemed necessary by City. Whenever a backflow prevention assembly is found to be defective, it shall be repaired, overhauled, or replaced at the owner's expense. The Water Division Superintendent shall retain adequate records of all inspections, tests, or repairs made pursuant to this Chapter.

(D) If a backflow prevention device or assembly is found to be necessary, the owner, tenant, occupant, or lessee of the property shall obtain an installation permit from the City, specifying the type and location of such device(s) or assembly(ies). It shall be unlawful to install, relocate, or remove a backflow prevention device or assembly without a permit.

(Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16)

8-4-39: INSPECTION OF NEW CONSTRUCTION: No building, improvement, or other structure shall be connected to the City water supply unless such structure has been inspected by the City Water Division Superintendent or other authorized officer of the City and found free of any cross-connections or other conditions for which a backflow prevention device or assembly is required by this Chapter.

(Ord. 3030, 11-24-2015; Ord. 3095, 9-22-16)

8-4-40: INSPECTION OF EXISTING BUILDINGS, STRUCTURES, OR IMPROVEMENTS AND TERMINATION OF WATER SUPPLY: Inspections by City or its authorized agent may be made of any existing buildings, structures, or improvements of any nature receiving water from the City supply. The Water Division Superintendent or their authorized agent shall make an inspection of any building, improvement, or structure of any nature receiving water from the City water supply if there is cause to believe that a cross-connection exists or that a backflow prevention device or assembly should be installed pursuant to this Chapter. Whenever a cross-connection or other source of contamination to the water supply is found, or it is determined that a backflow prevention device or assembly is necessary, the City shall cease delivery of water to such premises and the water supply shall not be resumed until the cross-connection or source of contamination is eliminated or an appropriate backflow prevention device or assembly has been installed in accordance with this Chapter.

(Ord. 3039, 11-24-2015; Ord. 3095, 9-22-16; Ord. 3095, 9-22-16)
CHAPTER 5
ELECTRIC SERVICE

SECTION:

8-5-1: Definitions
8-5-2: Exclusive Right To Sell Electrical Energy; Customer Service Policies
8-5-3: Ownership of Electric Light System
8-5-4: Applicability to Electric Service Customers
8-5-5: Application for Electric Services
8-5-6: Rates and Schedules
8-5-7: Delivery of Service
8-5-8: Voluntary Termination of Services
8-5-9: Limitations of Use
8-5-10: Rights of Way
8-5-11: Meter Service Installations
8-5-12: Measurement of Energy
8-5-13: Failure of and Tampering with Meter
8-5-14: Transformer Losses
8-5-15: Meter Reading
8-5-16: Billing; Collection, and Termination of Utility Service
8-5-17: Liability for Interruptions of Service
8-5-18: Shut-down for Repairs
8-5-19: Temporary Suspension of Demand
8-5-20: Interference with Service
8-5-21: Protection of Customer's Equipment
8-5-22: Allowable Motor Starting Currents
8-5-23: Maintenance of Equipment
8-5-24: Security Lighting
8-5-25: Schedule of Rates
8-5-26: Power Factor Penalty
8-5-27: Selection of Rate Schedules
8-5-28: Transfer From Other Utility
8-5-29: Non-Owner-Occupied Properties
8-5-30: (No Title)
8-5-31: Waiver or Adjustment of Fees

8-5-1: DEFINITIONS: Certain terms used in this Chapter shall have the meanings ascribed below:

BACKUP SERVICE: Electric service, either single or three-phase, to a commercial building for the sole purpose of providing backup power.

CAPACITY: The average kilowatt (kW) supplied the customer during the fifteen (15) minute period of maximum use during the month, as shown on the City meter.

CITY UTILITY BILLING OFFICE: The City office, under the direction of the City Treasurer, that has the responsibility for billing services for City utilities.

CITY CODE OF THE CITY OF IDAHO FALLS
COMMERCIAL: A building whose primary purpose is conducting business for profit.

COMMERCIAL DEVELOPMENT: A development requiring two (2) or more electrical services for the purpose of commercial operation.

COMMERCIAL SERVICE: Electric service, either single-phase or three-phase, to a permanent commercial structure.

COMPREHENSIVE PLAN: A plan which has been adopted by the Council pursuant to Idaho Code Title 67, Chapter 65 (the Local Land Use and Planning Act) for the purpose of guiding development in the City.

CONNECTED LOAD: The combined input rating of the customer’s motors and other electric energy-consuming devices.

CUSTOMER: Any individual, partnership, business entity, or corporation receiving or desiring to receive or provide electric service at a point of delivery located within the City or for whom electric service is delivered under agreement with any other electric utility.

ELECTRIC SERVICE: The availability of power and energy in the form and at the voltage specified in the application for electric service irrespective of whether electric energy is actually utilized.

ENERGY USE INTENSITY OR “EUI”: The annual Kilowatt-hours of Energy usage divided by the operating space square footage required by the Energy consuming activity as determined by IFP.

FACILITIES: Any electrical equipment and/or materials, whether overhead or underground, owned by the City, which are used to generate, transmit, and distribute electrical power to a customer.

HIGH VOLTAGE DELIVERY: Electric service delivered at two thousand four hundred (2,400) volts or greater.

IDAHO FALLS POWER OR “IFP”: The department of the City that operates and manages the electric light system of the city.

LINE EXTENSION: Any change or addition to the IFP electrical system, including service lines, distribution lines, Project Improvements, System Improvements, procurement of rights of way, easements, and permits for the primary purpose of providing electrical service requested by a customer.

LOW VOLTAGE DELIVERY: Electric service delivered at six hundred (600) volts or less.

NON-RESIDENTIAL: All electric services which are not one hundred twenty/two hundred forty (120/240) volt single-phase, to a permanent residential structure.

OVERHEAD SERVICE: Any service supplied directly to the customer from aerially-connected service conductors.
POI"T OF DELIVERY: The point where the customer’s wires are joined to the equipment or facilities of the City, unless otherwise specified in the application for electric permit and approved by the Director of Idaho Falls Power.

POWER FACTOR: The relationship between real and reactive power drawn under actual operating conditions as determined by measurements made by the City.

PRIMARY DISTRIBUTION LINE: Any high voltage electrical conductor that provides power to the high voltage side of a customer transformer.

PROJECT IMPROVEMENTS: Any new installation of electrical facilities or upgrade of existing electrical facilities for the primary purpose of serving a residential or commercial customer, including but not limited to poles, cables, transformers, and appurtenant facilities.

RESIDENTIAL DEVELOPMENT: A subdivision containing two (2) or more lots for use as residential housing, as evidenced by a subdivision plat recorded with the Bonneville County Recorder’s Office.

RESIDENTIAL SERVICE: Electric service which is one hundred twenty/two hundred forty (120/240) volt single-phase, to a permanent residential structure.

SECONDARY SERVICE: The materials and labor necessary to provide service from the secondary side of the transformer to the point of meter service on a building, home, or structure.

SERVICE MONTH: The period between successive meter readings, generally consisting of approximately thirty (30) consecutive days.

SYSTEM IMPROVEMENT: Any new installation or upgrade of electrical generation plants, electrical transmission lines, substations, distribution main feeders, and the like.

TEMPORARY SERVICE: Electric service required for a specific period of time not to exceed one (1) year or during progressing construction on commercial and industrial facilities, at the end of which period the facilities will no longer be needed.

UNDERGROUND SERVICE: Any service supplied directly to the customer by means of conductors placed underground.

(Ord. 3040, 11-24-15; Ord. 3222, 10-25-18)

8-5-2: EXCLUSIVE RIGHT TO SELL ELECTRICAL ENERGY; CUSTOMER SERVICE POLICIES: Idaho Falls Power shall have the exclusive right to sell and deliver electrical energy for residential, commercial and industrial lighting, power, heating and cooling uses located in whole or in part within the City, except as otherwise expressly permitted by law. No other person or entity may sell, re-sell, or distribute electrical energy to any customer whose point of delivery is located within or outside the City, or re-sell energy generated or distributed by the City, unless such delivery is expressly authorized by this Chapter. Idaho Falls Power may from time to time promulgate written rules and regulations and/or customer service policies regarding its delivery of electrical services, provided such
regulations are consistent with the provisions of this Chapter. (Ord. 2841, 6-24-10; Ord. 3003, 04-23-15)

8-5-3: OWNERSHIP OF SYSTEM: All lines, equipment, pole and facilities on the supply side of the point of delivery are owned and controlled by the City, except as expressly provided herein. (Ord. 3003, 04-23-15)

8-5-4: APPLICABILITY TO ELECTRIC SERVICE CUSTOMERS: This Chapter shall apply to the City and to every customer to whom electric energy or service is or will be supplied.

8-5-5: APPLICATION FOR ELECTRIC SERVICES: Electric service shall not be delivered to any customer until the customer or the customer’s authorized agent shall personally appear at the City utility billing office and make written application for delivery of electric services. The City may require appropriate identification of any customer or agent making application for electric service. Any customer who willfully gives materially false information in the application or who shall falsely represent an identity shall be guilty of a misdemeanor, and electric service to such customer may be terminated all in accordance with this Chapter. (Ord. 3040, 11-24-15; Ord. 3222, 10-25-18)

8-5-6: RATES AND SCHEDULES: Electric service supplied by the City shall be billed in accordance with the schedule of rates set forth below. The schedule of rates is designed to provide monthly rates for service supplied to the customer. (Ord. 3222, 10-25-18)

8-5-7: DELIVERY OF SERVICE: Service shall be delivered only to premises or facilities which are in conformity with the provisions of this Chapter, the Uniform Building and/or Fire Codes, the Zoning Ordinance and all other ordinances of the City. Service will be supplied under a given rate schedule only to such points of delivery as are adjacent to the facilities of the City, and which are adequate and suitable as to capacity and voltage, for service desired and under the rate schedule applicable thereto. The City shall not be obligated to construct extensions or install additional service facilities except as required in this Chapter. (Ord. 3222, 10-25-18)

8-5-8: VOLUNTARY TERMINATION OF SERVICES: In the event that any customer desires to discontinue receiving service from the City, he or she shall give advance notice in writing to the City of such desire to discontinue receiving electric services. Customers will be responsible for all electric service supplied to the customer’s premises until the date set forth in the customer’s notice and for any electricity actually consumed by such customer after the termination date set forth in the customer’s notice of termination. In the event any customer fails to give written notice in the manner set forth above, the customer shall be responsible for any and all bills or charges incurred by any person until such notice is given, or until another customer shall make application to receive electric service at the same point of delivery, regardless of whether or not the customer actually consumed electrical energy or utilized electrical service for his or her own purposes. (Ord. 3040, 11-24-15; Ord. 3222, 10-25-18)

8-5-9: LIMITATIONS OF USE: No customer shall sell, re-sell or offer to sell or re-sell such electric energy or permit others to use electric energy supplied to the customer's point of delivery, or install any master meter or sub-meter for such energy, unless such sale, use or installation is authorized in writing by Idaho Falls Power. A customer shall not extend or connect his wiring or installation, or extend his use of service to other buildings or places of use in order to furnish service to more than one building or place of use through one meter or point of delivery unless such buildings, property or place
of use is owned or operated by the customer and all electric service is used by the customer in the conduct of the same establishment and business. Notwithstanding the foregoing, Idaho Falls Power may promulgate rules and regulations allowing the master metering, sub-metering, or re-metering of electrical energy for purposes of re-sale for multi-family residential buildings, shopping centers or other commercial uses where (1) such multi-family use existed prior to July 1, 2010, or (2) the HVAC or water heating systems are centrally located or operated and cannot be individually controlled by the tenant or occupant. (Ord. 2841, 6-24-10; Ord. 3003, 04-23-15)

8-5-10: RIGHTS OF WAY: Electric service will be provided only upon the condition that the customer shall, without cost to the City, provide the City a right of way for the City's lines and apparatus serving the customer, across and upon the property owned or controlled by the customer, and shall permit access thereto by the City employees at all reasonable hours or at any time in any emergency situation. By acceptance of or application for electric services, the customer shall be deemed to waive any claim for damages by the City in conducting its customary and routine repair, maintenance and other operations within such right of way.

8-5-11: METER SERVICE INSTALLATIONS: Upon the payment of a meter installation fee in an amount set from time to time by Resolution of the Council per meter the City will, at its own expense, provide and maintain current transformers, if required, and meters to measure electrical consumption by the customer. The fee shall be paid to the City Community Development Services Department prior to the issuance of a building permit. The customer shall provide, install and maintain the meter base and service in accordance with the City Electrical Code, the City Customer Service Policy and the specifications set forth in this Chapter. All meter bases shall be installed in a convenient place on the exterior of the building and placed so that the meter may be read at any time. The customer shall provide access to his meter at all reasonable times and shall not obstruct normal access to the meter. If a meter is inaccessible, energy consumption and/or demand may be estimated by the City and such estimates shall be deemed to be final. If the customer refuses or fails to provide access to the meter, or to remove the obstruction to access, the City may terminate the customer's service in accordance with the procedure set forth in this Chapter and the City may thereafter refuse to provide electric services until proper access is provided and a disconnect fee has been paid, as provided in this Chapter. (Ord. No., 2-14-08; Ord. 2964, 8-14-14; Ord. 3003, 04-23-15; Ord. 3222, 10-25-18)

8-5-12: MEASUREMENT OF ENERGY:

(A) All energy delivered by the City shall, except as otherwise specifically provided, be paid for according to measurement by meters located at or near the point where the energy is to be delivered to the customer. When a billing error is found or when a meter is found to be more than two percent (2%) fast or slow under the conditions of normal operation, an adjustment of the charges shall be made for any period during which the billing error or malfunctioning meter can be established with reasonable certainty by the party in whose favor the adjustment is to be made. Such adjustment shall be based upon the customer's average monthly consumption for the year preceding the date of the erroneous billing or upon any other method which will more accurately estimate electrical consumption for such period.

(B) The City will test a customer's meter for accuracy in its measurement of energy. The charge for making such meter test shall be in an amount set from time to time by Resolution of the Council. (Ord. No., 2-14-08; Ord. 2964, 8-14-14; Ord. 3040, 11-24-15; Ord. 3222, 10-25-18)
8-5-13:  FAILURE OF AND TAMPERING WITH METER:  If the customer's meter fails to register at any time, the service delivered and energy consumed during such period of failure shall be determined or estimated by the City on the basis of the best available data. No person shall tamper with any meter or install or cause to be installed any appliance, wiring connection or any other device which prevents or is designed to prevent the meter from accurately recording the total amount of energy used on the premises. In the event evidence of tampering of such device is found on the customer's premises, the City may, in addition to other civil or criminal remedies available at law, terminate electric service to the premises in the manner set forth hereafter and may at once remove or order the removal of any such wiring connection, appliance or device at the customer's expense. In such event the City may estimate the amount of energy consumed and not registered, and the customer shall have the burden of proof of establishing such estimate is grossly unreasonable. The customer shall pay the estimated charges for such unregistered energy and the reasonable labor and material costs incurred in the removal of such wiring connection, appliances or devices and the reasonable costs of repair of any damaged facilities. In addition to the foregoing, the City may, as a condition for continued service or reconnection, impose a reconnect fee in an amount set from time to time by Resolution of the Council for any customer whose meter seal has been broken without prior authorization by the City. Such charges may be collected prior to reconnection or may be included in the customer’s regular monthly bill. (Ord. No. , 2-14-08; Ord. 2964, 8-14-14)

8-5-14:  TRANSFORMER LOSSES:  When delivery of service is on the primary side of customer's transformers, the City may install its meters on the secondary side of the transformers, and unless otherwise provided in the rate schedule, in determining the monthly consumption of power and energy, transformer losses and other losses occurring between the point of delivery and the meters will be computed and added to the reading of such meters. When delivery of service is on the secondary side of City's transformers the City may install its meters on the primary side of the transformers and, unless otherwise provided in the rate schedule in determining the monthly consumption of power and energy, transformer losses and other losses occurring between the point of delivery and the meters will be computed and subtracted from the reading of such meters. If a customer requests a larger transformer than what the City would typically install, the City may meter on the primary side to account for increased transformer losses and/or bill the customer on a real power basis using kVar calculations. (Ord. 3222, 10-25-18)

8-5-15:  METER READING: Meters will be read and bills will be rendered based upon the customer’s service month. The customer’s service month may be determined solely by the City and may commence at any time during a calendar month. If the meter is not read during the customer’s service month, bills may be rendered for the customer’s estimated energy consumption based upon the customer’s past electrical consumption for the service month in question or upon the typical consumption of a customer having equivalent service and usage requirements. Where a customer’s meter must be read in person (e.g. because it is an electromechanical, Advanced Meter Reading (AMR), or a radio-disabled Advanced Meter Infrastructure (AMI) meter), the customer shall be charged a fee in an amount set from time to time by Council. (Ord. 3040, 11-24-15)

8-5-16:  BILLING, COLLECTION, AND TERMINATION OF UTILITY SERVICE: Billing, collection, and termination for utility service shall be processed pursuant to the City billing, collection, and termination policy established by Council Resolution. (Ord. 2458, 9-12-02; Ord. 3039, 11-24-2015)
8-5-17: LIABILITY OR INTERRUPTIONS OF SERVICE: The City shall not be liable for any loss, injury or damage of any kind resulting from the interruption, reduction, loss or restoration of electric service from any cause, including without limitation any such loss by fire, flood, accident, casualty, sabotage, strike, litigation, act of God or the public enemy or failure or inadequacy of distribution, transmission or generation equipment. Without limitation by the preceding enumeration, in no event shall the City be liable for damage to or destruction of any computer, computer software, photocopier or other electric device which is sensitive to spikes, surges, sags, transients, noise, or other electrical interruptions, outages or fluctuations. Any customer owning or operating such equipment shall take all reasonable precautions to protect such equipment by installation of surge suppressors or other protective devices or equipment. The City disclaims any express or implied warranty of merchantability or fitness for a particular purpose, nor shall the delivery of energy to any customer be construed as or deemed to be the delivery of goods under the Idaho Uniform Commercial Code. (Ord. 2458, 9-12-02; Ord., 2-14-08; Ord. 2964, 8-14-14; Ord. 3039, 11-24-2015)

8-5-18: SHUT-DOWN FOR REPAIRS: For the purpose of making necessary repairs or changes to its generating, transmission or distribution facilities, or to avoid damage to property or to persons the City may suspend delivery of electric service for such periods as may be necessary, and the City shall not be liable for damage of any kind, direct or indirect, as a result of such discontinuance of electric service. (Ord., 2-14-08; Ord. 2964, 8-14-14; Ord. 3039, 11-24-2015)

8-5-19: TEMPORARY SUSPENSION OF DEMAND: When the customer suspends operation due to strikes, action of any governmental authority, act of God or the public enemy, the customer shall be obligated to pay the average of the customer’s prior twelve months of demand charges or base customer charge as set forth in this Chapter, or any minimum guarantees established in any special written agreement with the customer, irrespective of such temporary suspension. (Ord., 2-14-08, Ord. 2964, 8-14-14; Ord. 3039, 11-24-2015; Ord. 3222, 10-25-18)

8-5-20: INTERFERENCE WITH SERVICE: The City may refuse to supply loads of a character that may seriously impair service to any other customers, and the City may disconnect existing service if the customer’s load, as determined by Idaho Falls Power, is impairing service to any other customers. Where the customer's use of electricity is intermittent or subject to extreme fluctuations, the City may require the customer to provide equipment to reasonably limit or moderate such fluctuations. (Ord. 3039, 11-24-2015; Ord. 3222, 10-25-18)

8-5-21: PROTECTION OF CUSTOMER'S EQUIPMENT:

(A) The customer is solely responsible for the selection, installation and maintenance of all electrical equipment and wiring, other than the City's meters and apparatus, on the load side of the point of delivery.

(B) All electric motor installations shall include effective protective apparatus, or have adequate protective measures within the motor to accomplish equivalent protection as follows:

(1) Overload and over current protection for each motor by suitable thermal relays, fuses, or circuit interrupting devices automatically controlled to disconnect the motor from the line to protect it from damage caused by overheating.
(2) Open phase protection on all polyphase installations to disconnect motors from the line in the event of opening of one phase.

(3) All polyphase motors for the operation of passenger and freight elevators, cranes, hoists, draglines and similar equipment shall have reverse phase relays, or equivalent devices, for protection in case of phase reversal.

(4) Motors that cannot safely be subjected to full voltage at starting should be provided with a device to ensure that upon energization at full voltage such motors will be disconnected from the line.

(C) The customer shall be responsible to install and maintain surge suppressors, auxiliary power units or other protective devices for the protection of equipment sensitive to voltage spikes, surges, sags, transients, noise interruptions or outages.

(D) The customer shall install and maintain all suitable protective devices and equipment to protect themselves, life and property, from harm or injury from electric current and the City assumes no duty to warn or otherwise assist the customer in the selection or use of electrical appliances, tools, equipment or facilities. Ord. 3039, 11-24-2015; Ord. 3222, 10-25-18)

8-5-22: ALLOWABLE MOTOR STARTING CURRENTS: No customer shall use any motor having a rated horsepower of ten (10) or greater without first obtaining a permit therefor. The City may require the installation of reduced voltage starting equipment or other equipment necessary to prevent interruptions of electric service within the customer's immediate service area as a condition for the issuance of the permit. Any customer desiring to use such motors shall make written application therefor to Idaho Falls Power, stating the size and serial number of the motor, the intended use, location of business and such other information Idaho Falls Power may require in order to determine the impact the proposed use will have on the system. It shall be unlawful for any customer to use, install or replace any ten (10) HP or greater motor, except as specifically identified in and authorized by a permit issued Idaho Falls Power.

8-5-23: MAINTENANCE OF EQUIPMENT: The customer shall provide, operate and maintain all transformers, lines and equipment on the load side of the point of delivery designated by the City. Ord. 3039, 11-24-2015)

8-5-24: SECURITY LIGHTING: All exterior security lighting installed after the effective date of this Code, shall consist of overhead circuits, wood or metal poles. For underground service installations, the customer shall pay the cost of the metal pole and install a concrete base in accordance with City Specifications. The customer shall also be responsible to open and close all trenches for electrical distribution lines. (Ord. 3039, 11-24-2015; Ord. 3222, 10-25-18)

8-5-25: SCHEDULE OF RATES:

(A) BILLINGS: Customers shall be billed for electric energy and demand according to the schedule of rates set forth below and pursuant to the electrical billing rate calculation and billing policy adopted by the Council. No other rates for energy consumption shall apply except by special permit or contract specifically approved by the Council. Customer accounts shall be billed at intervals of
approximately every thirty (30) days, provided that failure to so bill shall not relieve the customer of any obligation to pay for electric service when actually billed for such service.

(B) COMMERCIAL RATE: This rate shall be applicable at each point of delivery, for all energy requirements delivered at nominal voltages up to four hundred eighty (480) volts to commercial customers. The Commercial Rate shall be in an amount set from time to time by Resolution of the Council for: Energy Charges; and Demand Charges.

(C) INDUSTRIAL RATE: This rate shall be applicable at each point of delivery, for all energy requirements delivered at nominal primary voltages to industrial customers having electric service with a minimum capacity of two hundred seventy five kilowatts (275 kW). The Small Industrial Rate shall be in an amount set from time to time by Resolution of the Council for: Energy Charges; and Demand Charges.

(D) HIGH DENSITY LOAD RATE: This rate shall be applicable at a single point of delivery and one location per customer, for all energy requirements delivered to server farms, crypto currency, data processing or similar technological operations with an energy use intensity (EUI) of 250kWh/ft²/year or more and with peak electrical load up to one thousand kilowatts (1,000 kW). Customers shall not create separate entities or other means to circumvent the maximum of one thousand kilowatts (1,000 kW) per customer and location within the City. EUI shall be determined by Idaho Falls Power staff by dividing the minimum operating space required by the energy consuming activity. The High Density Load Rate shall be in an amount set from time to time by Resolution of the Council for: Energy Charges, Demand Charges, Credit Risk Deposit, Distribution Connection Fee.

(E) LARGE SINGLE LOAD RATE: This rate shall be applicable to all single load customers whose aggregate demands at one or more points of delivery on the same premises exceed one thousand kilowatts (1,000 kW). This rate shall be a unique, negotiated rate designed to return to the utility all costs of service that may be fairly and equitably apportioned to the customer using generally accepted rate-making principles, based upon the customer’s unique circumstances and service needs. In no event shall such rate cause subsidization of such customer by other classes of customers nor cause subsidization of such other classes by the large single load customer. This rate shall be negotiated within thirty (30) days after the date the customer’s demands exceed such amount, provided that, in the event the customer and the utility are unable to agree upon a fair and equitable rate, the utility may unilaterally implement such rate, using the principles stated above or restrict service below the one thousand kilowatts (1,000 kW). This rate shall apply to any new customer following the adoption of this Subsection.

(F) RESIDENTIAL RATE: This rate shall be applicable for all electric service required by residential customers in single private dwelling units and individual family apartments intended for general domestic use only. The Residential Rate shall be in an amount set from time to time by Resolution of the Council for: Energy Charges; and Demand Charges.

(G) NET METERING RATE: Residential or Commercial customers who have an approved Net Metering and Small Generation Interconnection Agreement Application for installation of distributed generation will be classified according to their appropriate net metering rate.

(H) CITY STREET LIGHTING SERVICE: This rate is applicable for electric service for the lighting of public streets, alleys, thoroughfares and public parks and recreational facilities. The City
Street Lighting Service Rate shall be in an amount set from time to time by Resolution of the Council for: Energy Charges; and Demand Charges.

(I) SECURITY LIGHTING: This rate is for electric service for lighting private property, including without limitation, parking lots, storage lots, driveways, and yards. The rate shall consist of a fixed monthly charge based upon the rated average minimum lumen output. The Security Lighting Rate shall be in an amount set from time to time Resolution of the Council. Prior to the delivery of any energy to a security light, the customer shall pay a customer installation fee in an amount set from time to time by Resolution of the Council for each security lighting pole installed.

(J) TEMPORARY OR CONSTRUCTION RATE: This rate is for temporary service that is single phase 120/240 volt and a maximum of two hundred (200) amps. The Temporary or Construction Service Rate shall be in an amount set from time to time by Resolution of the Council for: Construction of Residential Occupancies; and Construction of Nonresidential Occupancies.

(K) LARGE POWER TEMPORARY OR CONSTRUCTION RATE: This rate is for temporary service that is over 120/240 volt with (200) amps. The Large Power Temporary or Construction Service Rate shall be in an amount set from time to time by Resolution of the Council for: Construction of Residential Occupancies; and Construction of Nonresidential Occupancies.

8-5-26: POWER FACTOR PENALTY: The commercial, high density load and single meter industrial rates stated above are based upon a customer power factor of eighty five percent (85%) lagging or higher as determined from simultaneous measurement of kilowatt hour (kWh) and K Var h during any billing period. If the customer’s power factor is found to be less than eighty five percent (85%) lagging, the demand as recorded by the City’s meter will be increased by adding to the recorded demand a power factor penalty in the amount of the product of the recorded demand and .0075 multiplied by the number of percentage points, rounded to the next whole number, that the power factor is less than eighty-five percent (85%) lagging. (Ord. 3003, 4-23-15; Ord. 3039, 11-24-2015; Ord. 3040, 11-24-15; Ord. 3222, 10-25-18)

8-5-27: SELECTION OF RATE SCHEDULES: The customer shall have the responsibility to apply for the appropriate rate applicable to the type of service. The rate shall be applied upon determination by Idaho Falls Power that the customer is eligible for the rate requested by the customer in their application for electrical service. Services qualifying for two or more rates shall be billed at the highest applicable rate. (Ord. 3003, 4-23-15; Ord. 3039, 11-24-2015; Ord. 3040, 11-24-15; Ord. 3222, 10-25-18)

8-5-28: TRANSFER FROM OTHER UTILITY: Any person who has previously been connected to the facilities of another electric supplier, before any extension, connection, or delivery of City electric services to such person, shall pay a transfer charge to the City utility billing office in an amount set from time to time by Resolution of the Council. (Ord. 3003, 4-23-15; Ord. 3039, 11-24-2015; Ord. 3040, 11-24-15; Ord. 3101, 111016)
8-5-29: NON-OWNER-OCCUPIED PROPERTIES: When electric or other public utility services provided by the City have been delivered to any customer who is not the lawful owner of the premises, and such customer abandons or vacates the premises, then and in such event, the City may place the account in the name of the owner or owners of the premises where utility service is delivered or available, and may bill such owner for all utility services delivered thereafter at that point of delivery until a new written application for electric services is made or the owner or owners request termination of utility services; provided, however, the account shall not be placed in the owner’s name until five (5) days after the City has mailed written notice to the last known address of such owner informing the owner of the proposed action on the account. (Ord. 3039, 11-24-15; Ord. 3040, 11-24-15; Ord. 3222; 10-25-18)

8-5-30: (A) PURPOSE: The purpose of this Subsection is to establish regulations relative to the construction and extension of electrical power lines and facilities within the City where such are requested by customers served by IFP and to establish fees therefore.

(B) SERVICE REQUESTS:

(1) The following shall require a fee to be paid as established herein:

   (a) Line Extension to Provide Temporary Service. IFP installation and removal of power for a temporary facility to an existing infrastructure within thirty feet (30’) of underground tap point or one hundred twenty-five feet (125’) from the closest overhead tap point. If such service requires pole installation or transformer placement, an additional fee shall be charged.

   (b) Residential Service Line Extension:

      (i) Within a Residential Development: IFP provision or extension of existing service lines to a residential structure within a new Residential Development. The fee for this service shall be determined on a “per lot” basis for an individual dwelling unit or on a “per unit” basis for multi-family housing. The fee shall also take into account the density and zoning for the dwelling to be served.

      (ii) Within Residential Development: IFP provision of Project Improvements or electrical service lines to a Residential Unit outside of a Residential Development. The customer requesting such project improvements and service lines shall pay all costs of such Project Improvements and all labor and material costs required, as determined by IFP.

(2) Commercial Service Line Extensions:

   (a) Within A Commercial Development: IFP provision of Project Improvements within a commercial planned development in commercially zoned areas. The customer requesting such Project Improvements, shall pay, at the time of building permit issuance, all construction costs for Project
Improvements necessitated by the development, based upon an approved engineering design from the developer. In such case, IFP shall supply and install the transformer and meter.

(b) Within A Commercial Development: IFP provision of a commercial electric utility connection within a commercial planned development. A customer requesting the commercial electric utility connection shall complete the trenching, install commercial electric service conduit and pay, in advance, a commercial hook-up fee. Following completion of such preparations, IFP shall make the connections at the transformer.

(c) Within A Commercial Development: IFP provision of Project Improvements or a commercial electric utility connection to a commercial structure that is not within a commercial planned development. The customer requesting such Project Improvements or commercial electric utility connection shall pay, in advance, all costs for construction of the Project Improvements, line extensions, and hook-up. Costs, based upon an approved engineering design accepted by IFP, shall be paid at the time of building permit issuance. In such case, IFP shall supply and install the transformer and meter.

(3) High Density Load

(a) The customer requesting such service shall pay, in advance, the Distribution Connection Fee prior to design and engineering.

(b) The customer requesting such service is required to pay all applicable Commercial Service Line Extension fees.

(c) Prior to commencing delivery of electric service, the Customer shall pay their Load Credit Risk Deposit.

(4) Requests For Backup Service: IFP installation and maintenance of backup service to a customer. The customer requesting installation and maintenance of backup service shall pay, in advance, the cost of all System Improvements, Project Improvements, transformer installation, metering, and service lines required to provide backup service.

(5) Requests for Relocation or Modification of Facilities:

a. A customer shall pay all actual costs for the removal, relocation, modification, or underground installation of IFP facilities where there is no change to existing electric service.

b. A customer shall pay the total estimated costs of Project Improvements necessary to accommodate the desired changes for the removal, relocation, modification, or underground installation of IFP
facilities where there is a change in the nature of existing electric service.

(6) Secondary Service Connection: A customer requesting connection of electrical service to a building shall pay a one-time fee.

(C) GENERAL PROVISIONS:

(1) Any fees established by this Subsection shall be in an amount established from time to time by Resolution of the Council.

(2) All line extensions and facilities modifications, including conduit provided by the customer, shall become and are deemed IFP property upon installation.

(3) All line extensions and facilities modifications shall be made in accordance with standard construction requirements of the IFP Service Policy adopted by the Council.

(4) Line extensions or facilities modifications shall be made only after the customer has paid the fees and estimated costs established in this Subsection.

(5) Project Improvements where any new single connected load is anticipated to be larger than 1 MW, shall require a negotiated interconnection agreement between the requester and IFP in addition to the fees and costs for the service. The agreement may take into consideration necessary IFP structure upgrades, such as substation capacity improvements.

(6) Except as provided in section (B)(4), (B)(5), and (C) of this Subsection, the provisions of this Subsection shall not apply to System Improvements. (Ord. 3040, 11-24-15; Ord. 3101, 111016; Ord. 3222, 10-25-18)

8-5-31: WAIVER OR ADJUSTMENT OF FEES: Council reserves the right to waive or adjust fees in this Chapter (other than net metering fees) upon a finding of good cause to do so where such waiver or reduction supports development or redevelopment in areas identified from time to time by Resolution of the Council. (Ord. 3040, 11-24-15; Ord. 3101, 111016)
CHAPTER 6
SANITATION SERVICE

SECTION:

8-6-1: Purpose
8-6-2: Application of Chapter
8-6-3: Solid Waste Removal Required
8-6-4: Definitions
8-6-5: Accumulation of Refuse
8-6-6: Deposit of Refuse on Public Property
8-6-7: Unlawful Use of Waste Containers
8-6-8: Sanitation Service Charges
8-6-9: Removal of Waste
8-6-10: Residential Waste Containers – Regulations
8-6-11: Commercial Containers – Regulations
8-6-12: Use of Containers
8-6-13: Compost Piles
8-6-14: Collection of Waste Containers
8-6-15: Exceptions to Waste Removal by City
8-6-16: Scattering of Waste
8-6-17: Commercial Sanitation Services Prohibited
8-6-18: Billing, Collection, and Termination of Utility

8-6-1: PURPOSE: The accumulation of waste, refuse, trash, garbage, rubbish, and other deleterious substances upon private properties, vacant lots and in streets and alleys constitutes a public nuisance and menace and contributes to the spread of infectious, contagious and epidemic diseases. It is necessary for the preservation of health, safety, sanitation, peace, and public welfare that proper and adequate regulations be adopted to require property owners and occupants to secure containers and receptacles of sufficient kind and size in which to deposit waste, refuse, trash, garbage, and rubbish for collection and removal at regular intervals. The significant cost of acquiring capital facilities, equipment, and vehicles necessary to provide removal of refuse requires the limitation of the number of providers of sanitation services within the City. The City intends to provide automated solid waste removal services to every occupant of the City except where such is impractical because of physical barriers; safety considerations; or technological or equipment limitations. (Ord. 3018, 8-27-15)

8-6-2: APPLICATION OF CHAPTER: This Chapter applies to the delivery of solid waste sanitation services to all residential, commercial and industrial properties within the City. (Ord. 3018, 8-27-15)

8-6-3: SOLID WASTE REMOVAL REQUIRED: Every occupant of property within the City shall be fully responsible to remove all waste from his or her premises unless otherwise allowed by this Chapter or specifically authorized by the City. (Ord. 3018, 8-27-15)

8-6-4: DEFINITIONS: For purposes of this Chapter, the following terms shall have the meanings ascribed below:
CONTAINER, COMMERCIAL:
A City-issued container for waste having a capacity in excess of one (1) cubic yard.

CONTAINER, RESIDENTIAL:
A City-issued residential container having a capacity of ninety-six (96) gallons or less.

GARBAGE:
Any excess or leftovers resulting from the preparation, cooking, consumption, or handling of food or other edible substance, whether for human or animal consumption, including without limitation, waste from the handling, storage, and sale of produce, which are not actively being composted.

JUNK:
Any materials consisting of any mechanical appliance, vehicle, machinery, equipment or apparatus, or any parts therefrom, including without limitation, all non-functional automobiles, white goods, recreational vehicles, boats, snowmobiles, motorcycles, farming and construction equipment.

OCCUPANT:
Any person occupying, possessing or having control of real property located in the City, whether as an owner, tenant or licensee.

REFUSE:
All materials of any kind or nature, including, but not limited to, handbills, newspapers, papers, cartons, boxes, barrels, shrubs, tree trunks (other than stumps in the ground), wood, brush, weeds, branches, yard trimmings, leaves, furniture, bedding, tin cans, metals, bottles, ashes, clinkers, broken glass, broken concrete, rock, crockery, mineral waste, street sweepings, industrial waste, sawdust, lumber scraps, shavings, animal carcasses, wire and plastics.

SANITARY SERVICE:
The availability of solid waste sanitation services provided by the City.

WASTE:
Any materials or items for which there is no practical use other than for recycling, and which, is markedly offensive or unsightly, or which creates an offensive odor or is unsanitary or unsafe, attracts insects or rodents or in any way creates a public nuisance or health or safety hazard. “Waste” and “solid waste” includes garbage, junk, refuse, and weeds, as defined in this Chapter.

WEEDS:
Any plant, growing or dead, more than ten (10”) inches in length or height, (as measured from the surface of the ground), except plants grown for ornamental purposes or for production of food for man or beast. Noxious plants, regardless of height, shall be considered weeds for purposes of this Chapter. (Ord. 3003, 04-23-15; Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)
8-6-5: ACCUMULATION OF REFUSE: It shall be unlawful for any occupant to accumulate or to allow the accumulation of refuse upon property under the occupant’s control in a manner which is markedly offensive or unsightly, attracts insects or rodents, is unsanitary, unsafe or unhealthy or which otherwise causes a public nuisance. (Ord. 3018, 8-27-15)

8-6-6: DEPOSIT OF REFUSE ON PUBLIC PROPERTY: It shall be unlawful to deposit or bury refuse in or upon any public alley, street, park or other public property, or upon the premises of another without the consent of the occupant of such other property. (Ord. 3018, 8-27-15)

8-6-7: UNLAWFUL USE OF WASTE CONTAINERS: It shall be unlawful for any person to deposit refuse into any waste container owned or leased by another without the express or implied permission of the owner or lessee thereof. (Ord. 3018, 8-27-15)

8-6-8: SANITATION SERVICE FEES: There shall be assessed for each structure located within the City, used for human occupancy, a monthly fee in an amount set from time to time by Resolution of the Council based, upon whether the service is residential or commercial, the number or size of waste containers used, and the frequency of pickup services. Solid waste sanitation services shall be provided, subject to the payment of the fees established from time to time by Resolution of the Council, and subject to the provisions of this Chapter. Every occupant shall pay a sanitation service fee, established from time to time by Resolution of the Council, irrespective of whether waste is removed from the occupant’s premises during the period for which the service is provided. (Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)

8-6-9: REMOVAL OF WASTE: The City will remove waste deposited in residential and commercial waste containers in accordance with the provisions of this Chapter. The City may decline to remove waste from any container which does not meet the requirements of this Chapter or which is not placed in waste containers. Every occupant of a residential and commercial property shall have the obligation to remove all waste accumulating on property under his or her control, in accordance with this Chapter. (Ord. 3003, 04-23-15; Ord. 3018, 8-27-15)

8-6-10 RESIDENTIAL WASTE CONTAINERS – REGULATIONS: City-provided containers are utilized for solid waste service, occupants shall contain all waste within the City-supplied containers. (Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)

8-6-11: COMMERCIAL WASTE CONTAINERS – REGULATIONS: All commercial waste containers shall consist of containers furnished by the City prior to being placed into service by the occupant. Removal of commercial waste on a basis more frequent than regularly scheduled may be accommodated when authorized by the City and where a fee is paid for more frequent removal. (Ord. 3003, 04-23-15; Ord. 3018, 8-27-15)

8-6-12: USE OF CONTAINERS: It shall be unlawful to deposit, store, or place solid waste into any waste container that is not provided by the City for pickup. Notwithstanding the foregoing, grass, leaves, weeds, and clippings from trees or ornamental shrubbery, no longer than four feet (4’) may be placed in cardboard cartons, bushel baskets, boxes, or strong plastic garbage sacks, provided the same are securely covered or closed in a manner which prevents
the contents from being blown, spilled, or strung about. The City will remove such non-standard containers provided the same do not exceed fifty (50 lbs) pounds in weight. (Ord. 3003, 04-23-15; Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)

8-6-13: COMPOST PILES: Compost piles and materials may be maintained, transported, kept, and used in any manner which does not constitute a public nuisance. (Ord. 3018, 8-27-15)

8-6-14: COLLECTION OF WASTE:

(A) The City will collect waste in accordance with a collection schedule it establishes. Prior to 7 a.m., local time, on the day scheduled for collection, all waste containers shall be placed at the street curb or inside edge of the sidewalk where the sidewalk is adjacent to the curb. All empty waste containers shall be withdrawn from the curb or inside edge of the sidewalk as soon as practical after removal of the waste from the container.

(B) All waste to be collected from a City-provided container pursuant to the Chapter shall be contained within such City-provided waste container.

(C) Every City-provided residential waste container shall remain at the address to which it is assigned and as distributed. Container repair or replacement costs beyond normal wear and tear, to a City-provided residential waste container shall be assessed and based on actual costs to the occupant for.

(D) City-provided solid waste containers shall be placed by the occupant at curbside, as close to the curb as possible. Such containers shall be at least three feet (3’) from any obstruction, including mailboxes, trees, shrubs, building overhangs, and utility poles. Additionally, such containers shall be placed in a location where there is unobstructed overhead clearance of at least fourteen feet (14’).

(E) At no time shall a City-provided solid waste container block or interfere with safe pedestrian, bicycle, or vehicle access to a street, alley, bike or pedestrian paths, or sidewalk (regardless of the City’s established solid waste collection schedule). (Ord. 3003, 04-23-15; Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)

8-6-15: EXCEPTIONS TO WASTE REMOVAL BY CITY: The City shall have no duty to remove the following waste:

(A) Dirt, earth, or debris from construction, building renovation, or demolition.

(B) Appliances (including white goods), large or heavy machines, tree trunks, or other debris or waste not placed within a waste container meeting the requirements of this Chapter.

(C) Hazardous waste, toxic chemicals, waste oils, lubricants, or any other substance harmful to life or limb; or

(D) Dead animals; or
(E) Waste not contained in City-provided containers, unless otherwise allowed by this Chapter or specifically authorized by the City. (Ord. 3003, 04-23-15; Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)

8-6-16: SCATTERING OF WASTE: It shall be unlawful to scatter the contents of any waste container upon any street, alley, right-of-way, or public park within the City. (Ord. 3018, 8-27-15)

8-6-17: COMMERCIAL SANITATION SERVICES PROHIBITED: It shall be unlawful for any person to conduct, engage or otherwise participate in any private business, undertaking, or enterprise for the removal or disposal of waste for pecuniary gain or profit. Nothing herein shall prohibit the use of waste for recycling purposes by any licensed recycling business, salvage yard, second-hand dealer or other similarly licensed enterprise. (Ord. 3018, 8-27-15)

8-6-18: BILLING, COLLECTION, AND TERMINATION OF UTILITY SERVICE: Billing, collection, and termination for utility service shall be processed pursuant to the City billing, collection, and termination policy established by Council Resolution. (Ord. 2311, 2-25-99; Ord. 2668, 09-14-06; Ord. 2683, 12-14-06; Ord. 2751, 5-22-08; Ord. 2964, 8-14-14; Ord. 3018, 8-27-15; Ord. 3235, 12-20-18)
CHAPTER 7
PUBLIC RIGHT OF WAY CONSTRUCTION

SECTION:

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

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

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

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

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

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

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

UNDERGROUND FACILITY: Any item buried or placed below ground for use in connection with the storage or conveyance of water (unless being delivered primarily for landscape sprinkler systems), sewage, electronic signal, telephonic or telegraphic communications, cable television, fiber optic, electrical energy, petroleum products, gas, gaseous vapors, hazardous liquids or other substances,
including, but not limited to pipes, sewers, conduits, cables, valves, lines, wires manholes, attachments and those parts of poles or anchors located below ground.

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

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

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

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

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

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

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

8-7-4: INSURANCE: No permit shall be issued pursuant to this Chapter unless the applicant presents with the application, or has on file with the City Engineer, a certificate of insurance from an insurance company qualified to write insurance contracts within the State of Idaho, certifying that the applicant has a policy of public liability insurance in an amount of not less than five hundred thousand dollars ($500,000) single limit liability for personal injury, death and property damage; provided, however, if the work to be done under the permit is limited to excavation in an easement situated entirely on private property or is for construction of a concrete sidewalk, driveway or curb and gutter within a street right-of-way, but parallel with and adjacent to private property, the amount of such insurance shall be not less than one hundred thousand dollars ($100,000) single limit for personal injury, death and property damage. Coverage for underground hazard shall also be included. Permits
involving work requiring the use of explosives or work that may endanger or cause the collapse of adjacent buildings or facilities shall also require the permittee to carry explosion and collapse hazard coverage with a minimum limit of five hundred thousand dollars ($500,000) single limit liability for personal injury, death, and property damage. Each policy, as required above, shall carry and endorsement naming the City as an additional insured under said policy. Said insurance policy or policies shall contain a clause requiring that the City Engineer be given at least thirty (30) days advance written notice in the event of expiration or anticipated cancellation. The permit shall be revoked at the time such insurance expires or is cancelled unless a certificate of comparable insurance is filed with the City Engineer prior to the time of cancellation or expiration of the original policy of insurance. (Ord. 2964, 8-14-14; Ord. 2970, 11-25-14)

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

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

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

8-7-8: COMPLETION OF WORK AND BACKFILLING: All work shall be expeditiously performed and completed as soon as reasonably possible. Upon completion of construction or repair, the permittee shall promptly backfill any street, alley, easement or other public right-of-way in which permittee has made any excavation and restore all surface improvements. All work, backfilling, and surface restoration shall be done in accordance with the drawings and specifications approved by the City. Any survey monuments disturbed shall be reestablished and remonumented as set forth in the Idaho Code. (Ord. 2970, 11-25-14)

8-7-9: TIME TO COMPLETE REPAIRS: Permanent surface repairs shall be completed by the permittee not later than three (3) days after the excavation has been backfilled, unless otherwise authorized by the City Engineer or his designated representative. If weather conditions prohibit
permanent repairs, the City Engineer, or a designated representative, may authorize the use and installation of temporary cold patches. Such temporary cold patches shall be replaced by the permittee as soon as weather permits. (Ord. 2970, 11-25-14)

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

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

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

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

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

SECTION:

8-8-1: Purpose
8-8-2: Definitions
8-8-3: Unlawful to Obstruct Sidewalks
8-8-4: Mailboxes
8-8-5: Sidewalk Sales
8-8-6: News Racks, News Vending Machine, and Newsstands
8-8-7: Bus Stop Benches
8-8-8: Public Fixtures Allowed on Sidewalks

8-8-1: PURPOSE: The purposes of this Chapter are:

(A) To promote the general health, welfare and safety of all persons traveling over or upon and otherwise using the public sidewalks within the City, especially those who benefit from the provisions of the Americans With Disabilities Act, as amended.

(B) To ensure free and unrestricted access of every number of the public to the public sidewalks and thoroughfares, residences and buildings abutting the same.

(C) To prevent personal injury and risk of bodily harm by objects being placed or maintained upon the public sidewalk in a manner which is dangerous or unsafe.

(D) To facilitate the installation, repair and maintenance of public sidewalks and thoroughfares and all public utilities, fixtures, signs, signals and other public structures, fixtures or receptacles placed thereupon.

(E) To promote the safe movement of vehicular traffic and provide for unobstructed view of the streets and public sidewalks for such vehicular traffic.

(F) To promote a clean, attractive and neat appearance of the public sidewalks and thoroughfares and to prevent unreasonable accumulation of refuse and litter thereupon. (Ord. 3003, 4-23-15;Ord. 3144, 21-11-2017)

8-8-2: DEFINITIONS: For the purposes of this Chapter, the following terms shall have the meaning set forth below:

BUS STOP BENCH: Any bench designed and intended for use by persons who use any bus service that provides transportation for the general public or any bus service operated by any governmental agency or any contractor of a governmental agency.

DOWN TOWN AREA: the area within the City located east of and including Memorial Drive; south of and including “G” Street; west of Yellowstone Highway; and north of and including Broadway Avenue.
DWELLING: A building or portion thereof, containing one (1) or more dwelling units. The term dwelling does not include hotel, motel, boarding or rooming house, rest home, or recreational vehicle as defined herein.

FAMILY: One (1) or more individuals occupying a dwelling unit and living as a single household unit.

LOCATION: Any site upon a public sidewalk which is within fifteen feet (15') of a designated public bus stop or designated bus stop of buses operated by a governmental agency or contractor of a governmental agency.

MAILBOX: A box or receptacle into which mail is delivered, especially one that is mounted on a post at or near the entrance to a mail recipient’s property or place of business.

MAIN BUS ROUTE STREETS: Means “arterial or collector streets” as defined in the Zoning Code, and shall also include the following streets within the City: Sunnyside Road from Rollandet Avenue east to Hitt Road, Elm Street from Yellowstone Avenue southeast to South Boulevard, 1st Street from Northgate Mile east to Woodruff Avenue, Grandview Drive from Washburn east to North Skyline Drive, North Skyline Drive from Pancheri Drive north to Broadway, and South Boulevard from Sunnyside Road north to 1st Street.

NEWS RACK: Any structure, stand, platform, stall, box, rack, booth or other structure or device used for the distribution of newspapers, magazines, or other printed news media, and includes news vending machines and newsstands.

RESIDENTIAL AREA: All real property within the City zoned RP, RP-A, R-1, R-2, R-2A, R-3, and R-3A.

SIDEWALK: The portion of a street or highway between the curb lines or the lateral lines of a roadway, and the adjacent property lines or a public access easement parallel to the street or highway and intended for use by pedestrians or non-motor vehicles (whether or not the surface is paved or otherwise improved). (Ord. 3003, 4-23-15; Ord. 3144, 21-11-2017)

8-8-3: UNLAWFUL TO OBSTRUCT SIDEWALKS: It shall be unlawful for any person to obstruct or allow to be obstructed temporarily or permanently any public sidewalk within the City (including by storage, installation, maintenance, or operation of any material, motor vehicle, vehicle, structure, trash or recycling container, fixture, or business), except as permitted by this Chapter, this Code, or Idaho Code. (Ord. 3003, 4-23-15; Ord. 3144, 21-11-2017)

8-8-4: MAILBOXES: Mailboxes may be installed, constructed, and maintained upon a public sidewalk, subject to the following restrictions and standards:

(A) The mailbox shall be permanently affixed on the top of a vertical metal pipe or bar with the bottom of the mailbox thirty-eight inches (38") above the top of the curb. The pipe or bar shall not exceed two inches (2") in diameter or two inches (2") on a side if rectangular.

(B) No part of the mailbox or structure shall protrude towards the street beyond the back edge of the curb or curb line nor extend towards the residence more than fifteen inches (15") from the back edge of the curb line.
(C) The foot of the pipe shall be grouted or otherwise securely embedded in a hole through the sidewalk not exceeding six inches (6") in diameter, the center of which shall be no more than eight inches (8") nor less than six inches (6") from the back of the curb edge or curb line.

(D) Spikes, decorations, metal works or other items shall not protrude from the structure in a manner which creates an unreasonable risk of bodily injury or harm to pedestrians.

(E) Barrels, cans, receptacles, stones, masonry, or other non-metallic materials supporting the structure are prohibited.

(F) Non-Conforming Mailboxes. All mailboxes installed prior to and in conformity with City Ordinance No. 1748, (February 23, 1984) shall be deemed to be in conformity with this Section; provided, however, if such mailbox is removed, any replacement thereof shall conform to the standards set forth in this Section. (Ord. 3003, 4-23-15; Ord. 3144, 21-11-2017)

8-8-5: SIDEWALK SALES:

(A) Goods, merchandise, food, and beverages may be sold or displayed from carts or other structures upon public sidewalks, subject to the restrictions and standards in this Chapter.

(B) Sidewalk Sales in Downtown Area. Any licensed merchant or other person conducting a lawful business may place tables, racks, stands, carts, or other similar structures upon a public sidewalk located within the Downtown Area for the purpose of selling or displaying goods, wares, merchandise, food, or beverages.

(C) Sidewalk Sales in Areas Other Than The Downtown Area. The Council may, by Resolution duly passed and adopted, declare a day or days during which licensed merchants or other persons conducting a lawful business may place tables, racks, stands, carts, or other similar structures upon a public sidewalk located outside the downtown area for the purpose of selling or displaying goods, wares, merchandise, food, or beverages.

(D) Standards. Any table, rack, stand, cart, or other similar structure placed upon any public sidewalk, as permitted by this Section, shall also comply with the following regulations and restrictions:

1. All structures shall be placed parallel to the edge of the sidewalk furthest from the public street and at a distance no greater than four feet (4') from the back edge of the sidewalk.

2. No such structure shall project on or over or be located in any part of any public street or alley; nor shall any such structure rest upon the public sidewalk in any area where a public alley or private driveway exits into a public street.

3. No such structure shall be placed within fifteen feet (15') of any fire hydrant.

4. No such structure shall be placed within three feet (3') of any marked crosswalk, street light pole, utility pole, traffic sign pole, fire call box, police call box or other emergency facility, designated bus stop or designated loading or unloading zone.
(5) No such structure shall have any spikes, decorations, or protrusions which create unreasonable risk of bodily injury or harm to pedestrian; nor shall any cords, ropes, wires or other materials or devices of any kind or nature be placed across the public sidewalk or in a manner which would cause or create an unsafe or dangerous condition.

(6) All goods, wares, merchandise, food, or beverages shall be placed upon a table, rack, stand, cart, or other permitted structure and shall not be placed directly upon the public sidewalk.

(E) Sidewalk dining may be allowed on portions of a sidewalk contiguous to the restaurant providing the food. The tables and chairs must be placed as far away from the public street as possible. The tables and chairs must leave at least four feet (4’) of walk way between the table and/or chairs and the edge of the sidewalk or other obstruction, such as a utility pole, fire hydrant, bus bench, planter, or newspaper rack. The tables and chairs must be portable. (Ord. 3003, 4-23-15; Ord. 3144, 21-11-2017)

8-8-6: NEWS RACKS, NEWS VENDING MACHINE AND NEWSSTANDS:

(A) News racks may be installed, used, or maintained upon public sidewalks, subject to the restrictions and standards in this Chapter.

(B) Encroachment on Public Streets Prohibited. No person shall install, use, or maintain any news rack which projects onto, into, or over any part of the roadway of any public street or alley, or which rests wholly or in part, upon, along, or over any portion of such roadway.

(C) Interference with Public Uses Prohibited. No person shall install, use, or maintain any news rack which, in whole or in part rests upon, in or over any public sidewalk when such installation, use or maintenance endangers the safety of persons or property, or when such site or location is used for public utility purposes, public transportation purposes or other government use, or when such news rack unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic (including uses that provide access, ingress, and egress required to be available by the American With Disabilities Act, as amended), the ingress into or egress from any crosswalk, residence, place of business, or any legally parked or stopped vehicle, or the use of poles, posts, traffic signs, or signals, hydrants, mailboxes, or other public structures or objects installed at said location.

(D) Standards: Any news rack which in whole or in part rests upon, in or over any sidewalk, shall comply with the following standards:

(1) No news rack may exceed fifty inches (50") in height, thirty inches (30") in width or two feet (2’) in depth.

(2) News racks may be placed only near a curb or adjacent to and parallel with the wall of a building adjoining the sidewalk or the edge of the sidewalk furthestmost from a public street. News racks placed near the curb shall be placed not less than twelve inches (12") and not more than eighteen inches (18") from the back edge of the curb; however, in locations not adjacent to a parking stall, news racks may be placed not less than three inches (3") from the back edge of the curb. News racks placed adjacent to the wall of a building or back edge of the sidewalk shall be placed not more than six inches (6") from such wall or edge of the sidewalk.
No news rack may be placed or maintained on a sidewalk in a location immediately opposite from another news rack.

(3) No news rack may be chained, bolted or otherwise attached to any fire hydrant, pole, bench, receptacle, or other public fixture.

(4) News racks may be chained or otherwise attached to each other side to side; however, no more than three (3) news racks may be joined together in this manner, and a space of not more than six inches (6") shall separate each news rack and a space of not less than eighteen inches (18") shall separate each group of three (3) news racks so attached.

(5) No news rack or group of attached news racks, in the aggregate, shall weigh, in excess of one hundred twenty-five (125) pounds when empty.

(6) No news rack shall be placed, installed, used or maintained:

(a) within three feet (3’) of any marked crosswalk.

(b) within fifteen feet (15’) of the curb return of any unmarked crosswalk.

(c) within three feet (3’) of any street light pole, utility pole, fire hydrant, fire call box, police call box, or other emergency facility.

(d) within three feet (3’) of any driveway.

(e) within three feet (3’) ahead of, and fifteen feet (15’) to the rear of any sign marking a designated bus stop.

(f) within three feet (3’) of any designated loading or unloading zone.

(g) within three feet (3’) of any publicly-owned bench.

(h) at any location whereby the clear space for the passage of pedestrians is reduced to less than five feet (5’); however, in the event the sidewalk is less than six feet (6’) in width, then the clear space shall not be reduced to less than four feet (4’).

(i) within three feet (3’) of any display window abutting the sidewalk in a manner which impedes or interferes with the reasonable use of such window for display purposes.

(F) Advertising Limitations. No news rack shall be used as advertising signs for publicity purposes other than as allowed by the Sign Code.

(G) Maintenance. Each news rack shall be maintained in a clean, neat, and attractive condition and in good repair at all times.
(H) Identification. Every person who places, maintains, or operates a news rack upon the public sidewalk shall have their name, address, and telephone number affixed thereto in a conspicuous place. (Ord. 3144, 21-11-2017)

8-8-7: BUS STOP BENCHES: Bus stop benches may be installed or placed upon public sidewalks, subject to the restrictions and standards in this Chapter.

(A) Installation of Bus Benches Prohibited. No person shall install or place any bus stop bench upon any public sidewalk located within the City, except as provided in this Section. Persons may install or place bus stop benches upon public sidewalks adjacent to streets in the downtown area of the City or adjacent to main bus route streets within the City only, upon obtaining a permit from the City for each location at which a bus stop bench will be installed or placed.

(B) Application Fee. Any person who desires to obtain a bus stop bench permit shall file a written application with the City Clerk. The application shall state the name, address, and telephone number of the person to whom the permit is to be used, the number of locations for which the permit is sought, and the street address of each such location. The number of benches at each location shall be limited to one (1) bench. Applications shall be accompanied by a non-refundable permit fee in an amount set from time to time by Resolution of the Council for each location for which the permit is sought. The application shall carry the written approval of the Chief of Police. No bus stop bench permit shall be issued without the approval of the Council.

(C) Term; Extension of Permit to Additional Locations; Fee. Bus stop bench permits shall be valid only for the location and the calendar year for which they are issued and shall expire on December 31 of the year for which they are issued. If the holder of a valid bus stop bench permit desires to install benches at locations not covered by his or her existing permit, he shall apply in writing to the Clerk to have the existing permit extended to cover additional locations. The application shall state the name, address, and telephone number of the permit holder, the number of the existing permit, the number of additional locations to be covered by the permit the street address of each such new location and the number of benches to be installed at each such new location added to the permit. The application shall be accompanied by a nonrefundable fee in an amount set from time to time by Resolution of the Council for each additional location to be covered by the permit. Upon approval of the application by the Chief of Police and the Council, the permit holder’s existing permit shall be extended to cover the additional locations.

(D) Permits Nontransferable. Bus stop bench permits shall not be transferable.

(E) Renewal and Fee. Bus stop bench permits may be renewed annually upon written request of the permit holder and payment of a nonrefundable renewal fee in an amount set from time to time by Resolution of the Council for each location covered by the permit. Requests for renewal must be filed with the Clerk prior to the date on which the existing permit expires. Requests for renewal shall be subject to the approval of the Chief of Police and the Council. Requests for renewal may be denied, in whole or in part, by the Chief of Police or the Council if the permit holder has failed to comply with the provisions of this Section.

(F) Failure to Renew Permit. Unless a written request for a renewal permit has been made, any bus stop bench installed or placed pursuant to a permit issued by the City shall be removed by the permit holder, at the permit holder's expense, not later than the expiration date of the permit. If the
permit holder fails to comply with the requirements of this paragraph, the City may cause the bench or benches to be removed and shall charge the cost of such removal to the permit holder.

(G) Installation on sidewalks maintained by City. If a person desires to install a bus bench on a sidewalk maintained by the City (e.g. Sunnyside Road), the Director of the City Department that maintains the sidewalk shall give written consent to the installation of such bench. To reduce public maintenance costs, construction of pads for the benches or other measures may be required by the Department. Such written consent shall accompany the application and be considered in the approval of the location by the Chief of Police and the Council.

(H) Number of Locations. Except as otherwise provided in this Section, the total number of locations for which the City may issue bus stop bench permits, including renewal permits, shall not exceed sixty (60) in any one calendar year. Upon recommendation by the Chief of Police, the Council may, by Resolution duly passed and adopted, increase the total number of locations for which such permits may be issued.

(I) Permit Not A Property Right. The issuance of any bus stop bench permit or any renewal permit shall not be construed to give the permit holder any vested interest in or right to use or occupy any public property within the City.

(J) Compliance With Code. Bus stop bench permit holders shall comply with all provisions of this Section concerning the installation, location, maintenance and use of any bus stop bench upon public sidewalks within the City.

(K) Indemnification. Bus stop bench permit holders shall indemnify and hold harmless the City, its agents, officials and employees from and against any and all claims for personal injury or for any loss or damage to property arising from the installation, placement, location or maintenance of any bus stop bench for which a permit is issued.

(L) Standards.

(1) Any bus stop bench installed or placed upon any public sidewalk as permitted by this Chapter shall comply with the regulations and standards set forth in this Section.

(2) No bus stop bench shall exceed eighty-four inches (84") in length, forty inches (40") in height or twenty-four inches (24") in depth. Any bus stop bench installed or placed in a "clear view zone", as defined by the Code, shall not exceed two feet (2') in height.

(3) Bus stop benches may be installed upon public sidewalks adjacent to streets in the downtown area of the City or adjacent to main bus route streets within the City only at locations approved by the Chief of Police. The Chief of Police shall have authority to disapprove any location that lies within any residential area of the City, whether or not such location is on a public sidewalk adjacent to a main bus route street. The Chief of Police also shall have authority to disapprove any location where the installation of a bus stop bench would unreasonably impede or interfere with the flow of pedestrian or vehicular traffic, endanger the safety of persons or property, or otherwise fail to comply with the provisions of this Section.
(4) No bus stop bench shall be installed upon any public sidewalk adjoining the front yard or side yard facing a street of any real property in the City on which a one-family or two-family dwelling is situated unless such owner or owners of the real property are notified of the request for installation of such bench at least fifteen (15) days prior to filing of the application with the Clerk. A copy of the notice to the property owner and proof of receipt shall be presented to the Clerk with the application.

(5) No bus stop bench shall be installed or placed in any manner that endangers the safety of persons or property, or at any location or site that is used for public utility purposes or other governmental use, or when such bench unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, the ingress into or egress from any crosswalk, residence, place of business, or any legally parked or stopped vehicle or the use of any poles, posts, traffic signs or signals, hydrants, mailboxes, or other public structures or objects installed at said location.

(6) All bus stop benches shall be placed parallel to and along the inward edge of the sidewalk. Bus stop benches shall be located so that there is a clear space for pedestrian traffic of at least five feet (5’) between the front edge of the bench and the curb line; however, if the sidewalk is less than seven feet (7’) in width, the clear space may be reduced to not less than four feet (4’).

(7) Bus stop benches shall be located within fifteen feet (15’) of a designated public bus stop or designated bus stop for buses operated by a governmental agency or a contractor of a governmental agency.

(8) No bus stop bench shall be placed within fifteen feet (15’) of any fire hydrant.

(9) No bus stop bench shall be placed within three feet (3’) of any marked crosswalk, street light pole, utility pole, traffic sign pole, fire call box, police call box or other emergency facility, or designated loading or unloading zone.

(10) No bus stop bench shall be placed within three feet (3’) of any display window abutting the sidewalk in a manner that impedes or interferes with the reasonable use of such window for display purposes.

(11) No bus stop bench shall project on or over or be located in any part of any public street or alley; nor shall any such bench rest upon the public sidewalk in any area where a public alley or private driveway exists into a public street.

(12) No bus stop bench shall have any spikes, decorations or protrusions which create an unreasonable risk of bodily injury or harm to pedestrians.

(13) No bus stop shall be affixed, anchored, bolted or otherwise attached to the public sidewalk.

(14) No bus stop shall have any bench be chained, bolted, or otherwise attached to any fire hydrant, pole, receptacle or other public fixture.
(M) Maintenance. Each bus stop bench shall be maintained by its permit holder, at the permit holder's own expense, in a safe, clean, neat and attractive condition. Such maintenance shall include, but not be limited to, snow removal from the area in which each such bench is located.

(N) Identification. The name, address and telephone number of the permit holder and the permit number shall be affixed in a conspicuous place to each bus stop bench.

(O) Advertising. Bus stop benches may be used by the permit holder for advertising signs or publicity purposes. Such signs shall be securely fastened to the bench. No advertising sign, advertising or publicity device or any other attachment shall extend beyond the dimensional requirements set forth in the Sign Code.

(P) Notice of Violation. The Chief of Police shall give notice in writing to the permit holder and owner, if known, of any bus stop bench that exists in violation of this Section. The notice shall be served by depositing it in the United States mail, first class postage prepaid, certified mail, return receipt requested, and addressed to the permit holder at the address shown on the permit or to the owner at the owner's last known address. The notice shall request the permit holder and owner of the bus stop bench remove such bench or bring it into conformity with the standards of this section within thirty (30) days of receipt of the notice. The notice shall be deemed received upon its deposit in the United States mail in the manner set forth in this section. Failure of a permit holder to comply with such notice shall be grounds for revocation of the permit. If any bus stop bench exists in violation of the provisions of this section and its permit holder or owner is unknown to the Police, such bench shall be deemed to be abandoned property and the Chief of Police shall have authority to confiscate such bench and to cause its immediate removal.

(Q) Revocation of Permit. Upon complaint of the Chief of Police and upon thirty (30) days written notice to the holder of a bus stop bench permit, the Council shall have the authority to revoke such permit, for all locations covered by the permit, for violations of the provisions of this Section or any regulations issued in connection therewith, or for any other good and sufficient cause. The decision of the Council in the matter of such revocations shall be final. Any revoked permit shall be immediately surrendered to the Clerk, and the permit holder shall, at his or her own expense, immediately remove benches from all locations for which the permit was revoked.

(R) Emergency Removal of Benches. The Police and the Fire Departments shall have the authority, without prior notice to the permit holder or owner, to cause the removal of any bus stop bench which wholly or in part rests on or projects over any part of a public street or alley, or which interferes with or impedes access to any fire hydrant, fire call box, police call box, utility pole or post, or other public fixture, or which unreasonably interferes with or impedes the flow of pedestrian or vehicular traffic, or which creates any unreasonable risk of bodily injury or harm to persons or damage to property.

(S) Disclaimer. Nothing in this Section, including without limitation the approval of any bus stop bench location and the issuance of any permit, shall be construed as imposing upon the City, its agents, officials or employees any private duty or liability for any injury to persons, or for any loss or damage to property arising from the installation, placement or maintenance of any bus stop bench. Neither shall this Section be construed to create any liability or cause of action against the City, its agents, officials or employees for any injury to persons or for any loss or damage to property arising
from the failure of any bus stop bench permit holder or owner to meet the standards of this Section. (Ord. 3003, 4-23-15; Ord. 3144, 21-11-2017)

8-8-8: PUBLIC FIXTURES ALLOWED ON SIDEWALKS: The City and the State of Idaho may install, place, and maintain utility poles and equipment, fire hydrants, traffic signs and signals, benches, receptacles for decorative trees and plants, bicycle racks, and any other publicly-owned fixtures or structures upon public sidewalks within the City, as permitted by law. (Ord. 3003, 4-23-15; Ord. 3144, 21-11-2017)
CHAPTER 9
COMMUNITY FORESTRY

SECTION:

8-9-1 Purpose
8-9-2 Definitions
8-9-3 Community Forester
8-9-4 Establishment of a Shade Tree Committee
8-9-5 Term of Office
8-9-6 Operation of the Shade Tree Committee
8-9-7 Duties and Responsibilities
8-9-8 Species of Trees Permitted
8-9-9 Memorial Tree Regulations
8-9-10 Utilities
8-9-11 Responsibilities for Private Trees
8-9-12 Licensing of Private Tree Service Companies
8-9-13 Permit Required for Pruning of Public Trees
8-9-14 Regulations for Planting Street Trees
8-9-15 Trees and Shrubs Overhanging Public Property
8-9-16 Abuse of Public Trees
8-9-17 Street Tree Care
8-9-18 Tree Topping
8-9-19 Public Nuisance Declared
8-9-20 Notice to Abate Nuisance
8-9-21 Appeal
8-9-22 City Abatement
8-9-23 Adoption of ANSI A300 and ANSI Z133.1
8-9-24 Maintenance in Accordance with ANSI A300
8-9-25 Penalty for Violations

8-9-1: PURPOSE: The purpose of this Chapter is to promote and protect the public health, safety and general welfare by providing for the regulation of the planting and maintenance, and removal of trees, shrubs and other plants within the City of Idaho Falls. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14)

8-9-2: DEFINITIONS:

(A) Terms used in this Chapter shall have the meanings ascribed below:


2. ANSI Z133.1: That certain safety standard regarding the planting and maintenance of trees in proximity to utility lines as published by the American National Standards Institute, Inc. May 22, 2001 Edition.
3. CITY FOREST: The sum of all trees and shrubs within the City.

4. CITY FORESTER: The person appointed by the Director to carry out the duties and functions set out in the Chapter.

5. CRITICAL ROOT ZONE: The area under a tree extending from the base of a tree in all directions to a line ten (10) feet outside of the drip-line.

6. DIRECTOR: The duly appointed Director of City Parks and Recreation Department or designee.

7. MEMORIAL TREE: A tree that has been specifically approved by the Urban Forester to be planted as a special commemorating memorial.

8. PARK TREE: Any public tree, shrub, bush and woody vegetation located in or upon any public park owned by the City, but excluding trees in the public right-of-way.

9. PERSON: Any individual, firm, partnership, corporation, association, company, or other governmental entity or organization of any kind.

10. PRIVATE TREE: Any tree that is not a public tree.

11. PRIVATE TREE SERVICE COMPANY: Any company or person engaged in the business of tree pruning, trimming, removal within or without the City, whose gross receipts are more than five hundred dollars ($500) in any calendar year.

12. PUBLIC RIGHT-OF-WAY: Improved or unimproved public property owned by, dedicated to, or deeded to, the public or the public's use for the purpose of providing vehicular, pedestrian and other public use. Such public property includes, but is not limited to, streets, alleys, sidewalks, public utility.

13. PUBLIC TREE: Any tree located upon public property owned or managed by the City, including a street tree.

14. SHRUB: A woody perennial plant, branched at or near the base and which at maturity is expected to grow less than fifteen (15) feet in height.

15. STREET TREE: Any tree, shrub, bush, and all other woody vegetation whose critical root zone is located on or encroaches into any public right-of-way or whose branches overhang any public right-of-way owned or managed by the City, or an adjacent property owner.

16. TOPPING: The severe cutting back of limbs to stubs larger than three (3) inches in diameter within the tree's crown or the removal of the top part (trunk and limbs) of a coniferous tree, thereby removing the normal canopy and disfiguring the tree.

17. TREE: A woody and perennial plant, usually having one main stem or trunk and many branches and which, at maturity is expected to exceed fifteen (15) feet in height and two (2) inches in diameter. The failure to achieve such height at maturity shall not preclude its
CITY CODE OF THE CITY OF IDAHO FALLS

8-9-3: CITY FORESTER: The Director may appoint a person to serve as City Forester. The City Forester shall have such duties and perform such functions as shall be prescribed herein and as required by the Director of Parks and Recreation. The City Forester is hereby authorized to:

(A) Direct, manage, supervise and control the City street tree and park tree program for the planting, removal, maintenance and protection of all public trees and shrubs on all public areas and to supervise and assist the Parks and Recreation Department personnel in the planting, removal, maintenance and protection of said trees and shrubs;

(B) To guard all public and private trees and shrubs within the City so as to prevent the spread of disease or pest and to eliminate dangerous conditions which may affect the life, health or safety of person or property.

8-9-4: ESTABLISHMENT OF A SHADE TREE COMMITTEE: There is hereby created and established a Shade Tree Committee for the City, which shall consist of seven members who reside within the City. The Shade Tree Committee shall be comprised of six (6) at-large members and one member (1) who shall be a member of the Parks and Recreation Commission. Members of the Committee shall be nominated by the Mayor and confirmed by a majority of the members of the Council.

8-9-5: TERM OF OFFICE: The term of the members of the Shade Tree Committee shall be three (3) years. In the event that a vacancy shall occur during the term of any member, his or her successor shall be appointed for the unexpired portion of the term. Members of the Committee shall serve at the pleasure of the Mayor and Council and may be removed for good cause at the sole discretion of the Council, including but not limited to failure to regularly attend scheduled meetings of the Committee or other dereliction of duty.

8-9-6: OPERATION OF THE SHADE TREE COMMITTEE: The Committee shall choose its own officers, make its own rules and regulations and keep minutes of its proceedings. A majority of the members shall constitute a quorum for the transaction of business.

8-9-7: DUTIES AND RESPONSIBILITIES: The Shade Tree Committee shall provide advice to the Director, Mayor, City Forester and Council as to the preservation, protection and management of the community forest of Idaho Falls, in accordance with the intent and purpose of this Chapter. The Committee shall have the following duties and responsibilities:

(A) Assist the City Forester in encouraging landscaping installation and maintenance on private property by providing information on the value of landscaping and the proper planting and care of trees and other vegetation;
(B) Recommend policies and procedures to identify, mark, publicize and preserve historic and notable trees on both public and private property;

(C) Assist the City Forester in promoting appreciation of trees and the City Forest through annual Arbor Day observances and other activities;

(D) Encourage improvement of the community forest through planning and policy development;

(E) Assist City Departments and Divisions in every way possible to enhance the City Forest;

(F) Enhance opportunities for obtaining monetary funds for tree purchases, related supplies and community forestry activities through local and federal assistantship grants and donations;

(G) Serve as an advocate of the City's Forest. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3003, 4-23-15)

8-9-8: SPECIES OF TREES PERMITTED:

It shall be unlawful to plant any tree within any public right-of-way or planting median or immediately adjacent to a public tree except the following species of trees:

**Small Trees**
- Cherry, Canada Red: Prunus virginiana ‘Shubertii’
- Cherry, Sargent: Prunus sargentii
- Crabapple, (persistent or fruitless varieties): Malus spp. ‘Spring Snow/Thunderchild’
- Elm, Camperdown: Ulmus glabra ‘Camperdownii’
- Hawthorne, Black: Crateagus douglasii'
- Hawthorne, Snowbird: Crateagus mordenesis
- Hawthorne, Washington: Crateagus phaenopyrum
- Hornbeam, American: Carpinus, caroliniana
- Lilac, Japanese Tree: Syringa reticulata
- Maple, Amur: Acer ginnala
- Maple, Bigtooth: Acer grandidentatum
- Maple, Hedge: Acer campestre
- Mayday: Prunus padus
- Pear, Callery (varieties): Pyrus calleryana ‘Cleveland/Princess'
- Plum, Newport: Prunus cerasifera ‘Newport'
- Serviceberry, Saskatoon: Amelanchier alnifolia

**Medium Trees**
- Amur Cork Tree: Phellodendron amurensis
- Beech, European: Fagus sylvatica
- Birch, Heritage: Betula nigra ‘Heritage'
- Catalpa, Northern: Catalpa speciosa
- Elm, Smoothleaf (varieties): Ulmus carpinifolia ‘Homestead/Frontier'
Hackberry
Honeylocust, (thornless varieties)
Linden, American (varieties)
Linden, Littleleaf
Linden, Corinthian
Linden, Littleleaf
Maple, Norway (varieties)
Maple, Red (varieties)
Oak, Columnar English
Walnut, English
Zelkova

Celtis occidentalis
Gleditsia triacanthos var. inermis
Tilia americana
Tilia cordata
Tilia cordata ‘Corinthian
Tilia cordata
Tilia americana
Acer platanoides
Acer rubrum
Quercus robur Fastigiata
Juglans regia
Zelkova serrata

Large Trees
Coffeetree, Kentucky
Honeylocust, Thornless (native species)
Horsechestnut
Linden, American (native species)
Maple, Norway (native species)
Oak, Bur
Oak, Bur/Gambel Hybrid
Oak, Bur/English Hybrid

Gymnocladus dioicus
Gleditsia triacanthos var. inermis
Aesculus hippocastanum
Tilia americana
Acer platanoides
Quercus macrocarpa
Quercus macrocarpa x gambelii
Quercus macrocarpa x robur

Other species may be planted only with written permission from the Parks and Recreation Department. (Ord. 2207, 8-8-96); (Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 3003, 4-23-15)

8-9-9: MEMORIAL TREE REGULATIONS:

A. Species of Memorial Tree will be decided by the Urban Forester.

B. The Parks Superintendent shall determine the location of a Memorial Tree.

C. Any plaque associated with a Memorial Tree shall be metal or bronze, four inches wide by nine inches (4” x 9”) long. The plaque shall be set in concrete five inches wide by ten inches long and with two inches thickness (5” x 10” x 2”) at ground level and confined within the mulch area of the Memorial Tree ring. No other size of plaque shall be allowed.

D. A Memorial Tree may be decorated with artificial decorations or flowers not more than two (2) days before birth and death dates a person memorialized and on any federally recognized holiday. Such decorations shall be removed within seven (7) days following such decoration dates. If decorations are not removed within seven (7) days following a decoration date, the City may remove and dispose of the decorations at the City’s sole discretion. (Ord. 3194, 6-28-18)

8-9-10: UTILITIES:
(A) It shall be unlawful for any person to plant any public or private tree under or within twenty (20) lateral feet of any overhead utility wire, or over or within five (5) lateral feet of any underground water line, sewer line, electric transmission or distribution line or other utility except the following species of trees:

- Cherry, Canada Red
- Crabapple, (persistent or fruitless varieties)
- Elm, Camperdown
- Honeylocust, Imperia
- Lilac, Japanese Tree
- Maple, Amur
- Mayday
- Mountain Ash, European
- Plum, Newport
- Serviceberry, Saskatoon
- Sumac, Staghorn

Prunus virginiana ‘Shubert’
Malus spp.
Ulmus blabra ‘Camperdownii’
Gleditsia triacanthos var. inermis ‘Imperial’
Syringa reticulata
Acer ginnala
Prunus padus
Sorbus aucuparia
Prunus cerasifera ‘Newport’
Amelanchier alnifolia
Rhus typhina

Other species may be planted only with written permission from the Parks and Recreation Department.

(B) It shall be unlawful to plant any public or private tree in any location in any manner which does not comply with the safety standards for planting and maintenance of trees in proximity to public utilities, as set forth in ANSI Z133.1.

(C) The City will not be responsible for damage to any tree or shrub located within a utility easement as a result of the operation or maintenance of City utility lines. Damage to any public utility system caused by trees improperly located within the public right-of-way or easement will be repaired at the owner's expense. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3003, 4-23-15; Ord. 3194, 6-28-18)
RESPONSIBILITIES FOR PRIVATE TREES:

(A) It shall be unlawful for any person owning a private tree or in control of a private tree to refuse or fail to take the following actions within a reasonable time after being directed to do so by the City Forester:

(1) Remove, prune, or reprune any tree located on such person's private property in a manner that removes, abates or otherwise lessens the likelihood of or resolves any pest infestation, dangerous condition or circumstance located within such tree, the existence of which constitutes a public nuisance, as defined in Section 8-9-18 of this Code.

(2) Remove, prune, or reprune any private tree located on such person's real property in a manner that provides for vertical clearance of the branches of such tree to a height of not less than:

a. Eight feet (8') above any public sidewalk; and

b. Thirteen feet (13’) from the back of the curb to Thirteen feet (13’) toward the center line above any public street, alley, or right-of-way and thereafter angled up toward the center line to a height of not less than fifteen (15’) feet at the center of the public street, alley, or right-of-way.

(3) Remove, control or abate any pest investing or otherwise located in or upon any private tree located upon the owner's private real property.

(4) Remove and properly dispose of all branches, twigs, leaves or other debris deposited upon public property by or at the direction of any person pruning, trimming or removing such private tree.

LICENSING OF PRIVATE TREE SERVICE COMPANIES:

(A) It shall be unlawful for any private tree service company to prune, trim or otherwise remove any public or private tree located within the City without having a valid, current license to engage in such business.

(1) Licenses shall be issued by the City Clerk upon payment by the applicant of a licensing fee in an amount set from time to time by Resolution of Council, and satisfaction by the applicant of the licensing requirements set forth below. Each license shall be issued for a period of one (1) year and shall not be transferrable.
(2) Prior to the issuance of any license, the applicant shall satisfy the following requirements:

(a) Provide a copy of a certificate of insurance evidencing the applicant's current coverage of a commercial general liability policy, having limits of not less than a combined single limit of five hundred thousand dollars ($500,000).

(b) Provide a copy of a certificate of insurance evidencing current Idaho workers’ compensation insurance, having limits not less than the Idaho statutory limits.

(c) Delivery of an affidavit signed by the applicant certifying that the applicant has within its employ or has contracted with an arborist certified by the International Society of Arboriculture ("ISA") for the term of the license.

(3) Such license may be revoked by the City Council upon satisfactory proof of any of the following reasons:

(a) The removal, pruning or trimming of any public or private tree within the City by the licensee at any time while the licensee does not have an ISA certified arborist on staff or has not contracted with a certified arborist.

(b) A removal, trimming or pruning of any tree by the licensee or any employee of the licensee who is not acting under the direction or control of an ISA certified arborist, and pursuant to a written work plan approved by an ISA certified arborist.

(c) The removal, trimming or pruning of any public or private tree by the licensee or any person employed or acting under the licensee’s direction or control, in any manner which violates the provisions of this Chapter.

(d) Failure of the licensee to maintain the liability insurance or worker's compensation insurance required by this Chapter.

(e) Failure to keep current any condition of licensure.

(f) A violation of this Chapter.

(g) Providing false or inaccurate information relative to licensure.

(B) Exemptions from licensure.

(1) Unless a person or company is a Private Tree Service Company, as defined in this Chapter, no license shall be required of a person or company:
(a) for occasional and incidental pruning of broken branches, trimming of ornamental shrubs, removal of tree branches or shrub branches that obstruct or interfere with paths, walkways, or gardens, and similar non-invasive care of trees and shrubs incidental to such person’s or company’s primary business; or

(b) where emergency tree or shrub trimming, pruning, or removal is reasonably necessary to prevent or lessen irreparable or serious damage to human life or property within five (5) days immediately following a storm event, accident, tree failure, or the like which causes the emergency.

(c) tree pruning below a fifteen foot (15’) height, as measured from the base of the tree pruned. (Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-13: PERMIT REQUIRED FOR PRUNING OF PUBLIC TREES:
(A) Unless exempt as provided by this Chapter, it shall be unlawful for any person to perform or caused to be performed any of the following acts without having first obtained a permit from the Director or the Community Forester:

(1) Prune, cut or remove any portion of a public tree.

(2) Attach any object to a public tree in any manner which is reasonably likely to harm or materially injure the bark of such public tree.

(3) Cut, damage, or destroy the bark of any public tree.

(4) Dig, trench, excavate or place any hazardous, chemical or substance within the critical root zone of any public tree.

(B) The Director or City Forester may, as a condition for the issuance of such permit, require the applicant to post a cash bond or other security acceptable to the Director or City Forester, the condition for which is the permittee’s removal of the stump of said tree within thirty (30) days of the date of the issuance of such permit. (Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-14: REGULATIONS FOR PLANTING STREET TREES: Street trees shall be classified in accordance with the three (3) species size classes listed in this Chapter. Street trees shall not be planted closer together than the following: small trees, twenty feet (20’); medium trees, thirty feet (30’); large trees, forty feet (40’). No trees may be planted closer to the backside of any curb or the nearest edge of any sidewalk than the following: small trees, two feet (2’); medium trees, three feet (3’); and large trees, four feet (4’). All trees planted shall follow the Clear View Section of the City's Zoning Ordinance, Ordinance No. 1941, Sections 4-7. All distances shall be measured from the center of the tree trunk at ground level. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)
8-9-15: TREES AND SHRUBS OVERHANGING PUBLIC PROPERTY: All owners, or persons in control of private real property upon which a street tree or shrub is growing, shall remove or trim, at his or her expense, all limbs or foliage which overhang or project into any public street, sidewalk, alley or easement and which interfere with public travel or use of such public way or easement or which do not satisfy the requirements of the City Zoning Ordinance entitled "Clear View of Intersecting Streets and Ways." All trees and shrubs planted shall follow the Clear View Section of the City’s Zoning Ordinance, Ordinance No. 1941, Sections 4-7.

(A) Trees and shrubs shall be trimmed from the ground level to at least fifteen feet (15’) above any public street, public easement or alley, or to at least eight feet (8’) above the curb and sidewalk.

(B) Clearance of the branches of a tree to a height of not less than:

(1) Eight feet (8’) above any public sidewalk; and

(2) Thirteen feet (13’) from the back of the curb to Thirteen feet (13’) toward the center line above any public street, alley, or right-of-way and thereafter angled up toward the center line to a height of not less than fifteen feet (15’) at the center of the public street, alley, or right-of-way. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-16: ABUSE OF PUBLIC TREES AND SHRUBS:

(A) Unless authorized by an appropriate public officer, it shall be unlawful for any person to:

(1) injure, deface, disfigure or destroy any public tree;

(2) permit any animal under his or her care or control to injure any public tree or shrub;

(3) cause any fire to injure any portion of any public tree or shrub;

(4) cause any toxic chemical to be applied to, seep, drain or be emptied on or about any public tree or shrub;

(5) attach any device or structure to or on public trees, in a manner which harms or which is reasonably likely to cause harm a public tree;

(6) injure, destroy, to cut or pick any flower or ornamental plant growing, standing or being on public property;

(7) make or cause excavations in the soil near roots of public trees unless appropriate measures are taken to prevent exposed soil from drying out;

(8) damage the roots of a public tree by compacting or filling on or around the base of the tree; or

(9) to top, prune or trim any public tree, except in accordance with the provisions of ANSI A300.
(B) Nothing herein shall prevent or prohibit the pruning, removal, treatment, care or maintenance of any public tree or shrub, provided such work complies with the provisions of ANSI A300. (Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-17: STREET TREE CARE: The Department of Parks and Recreation shall have the right to remove, trim, destroy and control all street trees which are planted, grown or maintained in violation of the provisions of this Chapter. The Department of Parks and Recreation shall have the right to plant, prune, maintain and remove street trees within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 3003, 4-23-15; Ord. 3194, 6-28-18)

8-9-18: TREE TOPPING: It shall be unlawful for any person to prune or top any public tree except in accordance with ANSI A300. (Ord. 2207, 8-8-96; Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 3194, 6-28-18)

8-9-19: PUBLIC NUISANCE DECLARED:

(A) The City hereby declares the following actions, practices or objects to be a public nuisance:

(1) Any living or standing private or public elm tree or part thereof infected with the Dutch elm disease fungus Ceratocystis ulmi (Buisman) or which harbors any of the elm bark beetles Scolytus multistriatus (Marsham) or Hylurgopinus rufipes (Eichhoff).

(2) Any public or private dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material not buried, burned, sprayed with an effective elm bark beetle-destroying insecticide, or from which the bark has not been removed.

(3) The cultivation, maintenance or allowing to grow of any private or public tree which harbors any insect, disease or infestation by any living creature which poses a threat to the health or safety of any other public or private tree within the City or which poses a health or safety threat to any person or property.

(4) Any public or private tree infested by any insect, pest or disease which is determined by the City Forester to pose a threat to the health of any other public or private tree.

(5) Any public or private tree, the roots of which are growing beneath a public sidewalk and which cause a public hazard to the safe and efficient pedestrian travel upon such sidewalk.

(6) Any public tree planted, growing or maintained in violation of the provisions of this Chapter. (Ord. 3194, 6-28-18)

8-9-20: NOTICE TO ABATE NUISANCE:

(A) Any person who fails to abate any nuisance defined by this Chapter within twenty (20) business days after the delivery of notice, shall be guilty of an infraction for every forty-eight (48) hour time period thereafter that the nuisance continues.
(B) Said notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or controller(s) of the premises. Service of notice may be accomplished by personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall abate the nuisance within twenty (20) business days; that the owner, occupant, or person in control of the property given the notice may, within forty-eight (48) hours of receipt of the notice, deliver in writing to the City Clerk his or her objections to abatement of the nuisance and request an appeal hearing before the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council.

(D) Where the Director of the Parks and Recreation Department determines that abatement of the nuisance requires removal and/or replanting of a tree or shrub, the Director may defer abatement of such nuisance; however, any appeal of such an abatement notice (along with the proper fee for appeal) shall be filed forty-eight (48) hours after receipt of such notice. The Director’s deferral of abatement shall be in writing and shall identify a day by which the nuisance shall be abated. Failure to abate the nuisance on or before the deferral date is a violation of this Chapter. (Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2877, 8-11-11; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-21: APPEAL: Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within twenty (20) calendar days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the nuisance. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to abatement of the nuisance under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to nuisance abatement, abatement of the nuisance shall take place within forty-eight (48) hours following the decision by the Board of Adjustment panel. (Ord. 2486, 3-27-03; Ord. 2738, 2-14-08; Ord. 2892, 02-02-12; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-22 CITY ABATEMENT:

(D) City is authorized to use public funds to abate nuisance.

(E) If the property owner(s) or occupant(s) or person(s) in control of the property fails to abate the nuisance within forty-eight (48) hours following a final decision regarding the nuisance, the City may enter the property and commence abatement pursuant to Idaho Code.

(F) If the City abates the nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code.

8-9-23: ADOPTION OF ANSI A300 and ANSI Z133.1:
(A) There is hereby adopted as an official code for the maintenance of trees, shrubs and other woody plants that certain standard maintenance practice as published in ANSI Standard A300 (Part I)-2001, as published by the American National Standards Institute, Inc. and approved on May 22, 2001.

(B) There is hereby adopted as an official code, that certain safety standard for planting and maintenance of trees in proximity to utility lines, known as ANSI Z133.1, as published by the American National Standards Institute, Inc., May 22, 2001 Edition.

One (1) copy of ANSI A300 and of ANSI Z133.1 shall be filed with and maintained in the office of the City Clerk, for use and examination by the public. (Ord. 2964, 8-14-14; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)

8-9-24: MAINTENANCE IN ACCORDANCE WITH ANSI A300. It shall be unlawful for any person or licensed tree company to perform maintenance of trees not in accordance with ANSI A300. (Ord. 3194, 6-28-18)

8-9-25: PENALTY FOR VIOLATIONS: Any person, entity or licensed tree company who violates any portion of this Chapter shall be guilty of an infraction, with each violation subject to an infraction fine in an amount set from time to time by Resolution of Council. Each tree that is maintained not in accordance with ANSI A300 shall constitute a separate violation of this Chapter, punishable by an infraction. Ord. 2964, 8-14-14; Ord. 2968, 9-10-14; Ord. 3194, 6-28-18)
CHAPTER 10
MAINTENANCE AND CONSTRUCTION OF SIDEWALKS AND CURBS

SECTION:

8-10-1: Duty of Property Owners
Every person who owns real property within the City shall remove any snow, ice and other obstruction or dangerous condition upon any sidewalk, curb and gutter abutting his or her property.

8-10-2: Order for Construction or Maintenance
The City may order any person who fails to perform his or her duty under this Chapter upon a finding that such Sidewalk, curb and gutter have not been constructed or maintained in accordance with the provisions of this Chapter. Upon the issuance of such order, the City shall serve a notice advising the owner of such property of a violation of this Chapter. (Ord. 3003, 4-23-15; Ord. 3177, 04-12-18)

8-10-3 NOTICE TO ABATE NUISANCE.

(A) Whenever a violation of this Chapter comprises a public nuisance, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) in control of the premises requiring abatement of the nuisance identified in the notice.

(B) Such notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or person(s) in control of the premises. Service of notice may be accomplished through personal service on the owner(s), occupant(s), or person(s) in control of the property, by United States mail, by hand delivery, by posting in a conspicuous place upon the premises, or by other delivery method reasonably calculated to give notice to the owner(s), occupant(s), or person(s) in control of the property.

(C) Such notice shall be in writing and shall clearly state that the property contains a public nuisance and that the owner(s), occupant(s), or controller(s) shall abate the nuisance within twenty (20) calendar days; that the owner, occupant, or person in control of the property given the notice may, within five (5) business days following receipt of the notice, deliver in writing to the City Clerk his or her objections to abatement of the nuisance and request an appeal hearing before a panel comprised of...
three (3) members of the Board of Adjustment upon payment of a fee for the appeal in an amount established from time to time by the Council.

(D) Where the City determines that abatement of the nuisance requires construction or reconstruction of a Sidewalk, curb, or gutter, or a combination thereof, the Director may defer abatement of such nuisance; however, any appeal of such an abatement notice (along with the proper fee for appeal) shall be filed within five (5) business days following receipt of such notice. The Director’s deferral of abatement shall be in writing and shall identify a date by which the nuisance shall be abated. Failure to abate the nuisance on or before the deferral date is a violation of this Chapter. (Ord. 3177, 04-12-18)

8-10-4 APPEAL.

Upon receipt by the City of intent to appeal and payment of the appeal fee, a person receiving notice to abate shall be heard by the Board of Adjustment panel within twenty (20) calendar days of the filing of the appeal, during which appeal time no action shall be taken by the City regarding the nuisance. At the appeal hearing, the appellant must show, by a preponderance of the evidence, that there is an exception to abatement of the nuisance removal under this Chapter. The decision of the Board of Adjustment panel shall be final. Unless the Board of Adjustment panel finds an exception to nuisance abatement, abatement of the nuisance shall take place within twenty (20) calendar days following the decision by the Board of Adjustment panel. (Ord. 3177, 04-12-18)

8-10-5 CITY ABATEMENT

(G) City is authorized to use public funds to abate a nuisance.

(H) If the property owner(s) or occupant(s) or person(s) in control of the property fails to abate the nuisance within twenty (20) calendar days following a final decision regarding the nuisance, the City may enter the property and commence abatement, pursuant to Idaho Code.

(I) If the City abates the nuisance, all costs and expenses related to abatement shall be billed and assessed against the property owner and, if unpaid, shall be collectible by any lawful means including, but not limited to, creation of a special assessment collectible against the subject property, pursuant to Idaho Code. (Ord. 3177, 04-12-18)

8-10-6: CONSTRUCTION SPECIFICATIONS: The construction of all Sidewalks and curbs and gutters shall be in accordance with the City Standard Drawings and Construction Specifications. (Ord. 3177, 04-12-18)

8-10-7: PERMIT FOR TRAP DOORS: It shall be unlawful to construct, maintain or operate any trap door, opening, grating or other opening within or upon a public Sidewalk, without a permit issued by the Council. (Ord. 3177, 04-12-18)

8-10-8: OPENINGS IN SIDEWALKS: It shall be unlawful for any person to fail or neglect to maintain any trap door, opening or grating approved by the Council, or to fail or neglect to keep the same securely closed while any doors covering the same are not in use, or to take all reasonable and necessary safety precautions to prevent harm and injury to person or property. All openings for

CITY CODE OF THE CITY OF IDAHO FALLS 487
elevators, coal chutes, or service entrances or openings of any kind within a public Sidewalk shall be constructed and installed in such manner as to prevent entry of storm waters or floods from the street or Sidewalk. (Ord. 3177, 04-12-18)

8-10-9: COVERINGS UPON SIDEWALKS: All Sidewalk doors, coal chutes, and coverings and supports therefor shall be made of steel or cast iron, shall be placed flush with the Sidewalk surface, shall have a corrugated surface or other finish that will prevent slippage thereupon, and shall be so constructed as to support a load of not less than two hundred (200) pounds per square foot. (Ord. 3177, 04-12-18)

8-10-10 SIDEWALK, HAIL, SNOW, SLEET AND/OR ICE REMOVAL REQUIRED.

(A) Definitions:

(1) Agent. Any person under a legal or contractual obligation to remove hail, snow, sleet and/or ice on a Sidewalk for an owner or lessee of property within the City, whether or not for compensation.

(2) Precipitation Event. Any product of the condensation of atmospheric water vapor (including hail, snow, sleet, and ice) that falls under gravity within City limits, as determined by the National Weather Service Station at the Idaho Falls Regional Airport.

(3) Sidewalk. Any concrete, asphaltic paving or brick material adjacent to a City street, easement, right-of-way or other public way, whether within a public right-of-way or on private property, designated and/or used by pedestrians for travel.

(B) Duty to Remove Hail, Snow, Sleet and/or Ice Promptly.

(1) Unless otherwise provided in this Section, it shall be unlawful for an owner, agent or lessee of real property to fail to remove or fail to cause to be removed hail, snow, sleet, and/or ice, from the entire length and breadth of every Sidewalk in the City within the twenty four (24) hour period immediately following the cessation of a Precipitation Event.

(2) The duty imposed in this subsection (B)(1) shall not include snow placed onto Sidewalks by snow removal equipment of the City or its designee after it has been removed following a Precipitation Event. (Ord. No. 3145, 11-21-2017; Ord. 3177, 04-12-18)

8-10-11 OBSTRUCTION OF A CITY SIDEWALK, STREET, EASEMENT, RIGHT-OF-WAY, OR OTHER PUBLIC WAY WITH SNOW OR ICE IS PROHIBITED.

(A) It shall be unlawful to place snow or ice removed from private property (including a Sidewalk) upon any public sidewalk, street, easement, right-of-way, or other public way, alleyway or Sidewalk.
(2) It shall also be unlawful to place snow or ice removed from sidewalks, private driveways, driveway approaches, or other public places in or upon a public sidewalk, street, easement, right-of-way or other public way, alleyway or sidewalk in a manner that causes a hazard or obstruction to vehicular or traffic or any person travelling over or upon or otherwise using a public sidewalk, street, easement, right-of-way or other public way, alley, or sidewalk within the City, especially those who benefit from the provisions of the Americans with Disabilities Act as amended. (Ord. No. 3145, 11-21-2017; Ord. 3177, 04-12-18).

8-10-12 PENALTIES.

(A) Any person who violates Sections 8-10-10 of this Chapter is guilty of an infraction in an amount set from time to time by the Council.

(B) Any person who violates Sections 8-10-11 of this Chapter is guilty of an infraction for every twenty-four (24) hour period of a failure to comply with a duty imposed by such sections in an amount set from time to time by the Council. (Ord. No. 3145, 11-21-2017; Ord. 3177, 04-12-18).
CHAPTER 11
CEMETERY REGULATIONS

SECTION:

8-11-1: Definitions
8-11-2: Cemeteries Under Control of City
8-11-3: Title to Cemetery Land
8-11-4: Transfer of Space by Owner; Transfer Fee
8-11-5: Issuance of Certificate by City
8-11-6: Cemetery Ownership Record
8-11-7: Fees; Burial Record
8-11-8: Duties of Sexton
8-11-9: Grave Spaces/Decorations
8-11-10: Gravestones; Gravespaces
8-11-11: Improvements of Cemetery Spaces/Ground Maintenance
8-11-12: Prohibited Uses and Activities
8-11-13: Burials
8-11-14: Disinterment

8-11-1: DEFINITIONS:
Burial: the placement or interment of human remains in a burial space (e.g., full-body interment in a grave or crypt, urn of cremated remains in a niche, crypt or in-ground grave).

Cenotaph: A monument or empty tomb honoring a person buried elsewhere.

Disinterment: The removal of the buried remains of a deceased person.

Grave: A below-ground burial space.

Gravestone: Any object (such as a stone, plaque, headstone, monument, or monolith) identifying or marking a grave, gravesite, or burial place.

Mausoleum: Any large, imposing burial place, where part of the structure is above ground.

Niche: A shelf-like space in a columbarium structure used for burial.

Sexton: The City employee authorized to be responsible for cemetery operations and any designee of the Sexton.

Space: A single space within a cemetery designated for burial.
Vault: A container designed to enclose a casket or urn for burial. (Ord. 3214, 13-09-2018)

8-11-2: CEMETERIES UNDER CONTROL OF CITY: The Rose Hill Cemetery and Fielding Memorial Park shall be under the direct supervision and control of the City. (Ord. 3214, 09-13-2018)

8-11-3: TITLE TO CEMETERY LAND: The title to all land located within Rose Hill Cemetery and Fielding Memorial Park, not heretofore transferred or conveyed by deed or certificate, shall vest in the City, and shall be transferred by a certificate executed by the Mayor and Clerk under the City seal. Such certificate shall vest title to the spaces so conveyed or transferred to the purchaser, their heirs and assigns, in fee simple, for burial purposes, subject to such conditions as may be imposed or prescribed by the City. (Ord. 3214, 09-13-2018)

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8-11-4: TRANSFER OF SPACE BY OWNER; TRANSFER FEE: A cemetery space may be transferred from one (1) person to another by surrendering the original or copy of original certificate, where available, to the Clerk, and requesting a new certificate for the subsequent owner. The City shall issue a new certificate upon the payment of a fee, as set from time to time by Resolution of the Council, and upon execution by the original owner(s) or legal representatives of an assignment of such certificate. (Ord. 2964, 8-14-14; Ord. 3214, 09-13-2018)

8-11-5: ISSUANCE OF CERTIFICATE BY CITY: A person desiring to purchase a space in a City cemetery shall make application to the City. Upon receipt of the application and payment of the purchase price for the space determined by Resolution of the Council, the City shall execute and deliver to the applicant a certificate evidencing ownership. In the event a certificate is lost or destroyed, the City may, upon adequate proof of ownership, issue a new certificate upon payment of a fee in an amount set from time to time by Resolution of the Council. (Ord. 3214, 09-13-2018)

8-11-6: CEMETERY OWNERSHIP RECORD: The Clerk shall keep a record of the ownership of all spaces located within the City cemeteries. Such record shall state the name and address of the owner, the purchase price paid for the space(s) and the date of sale. (Ord. 3214, 09-13-2018)

8-11-7: FEES; BURIAL RECORD: Any owner of a burial space desiring a burial in a City cemetery shall apply to the City. Upon payment of the proper fees, the City shall give the applicant the location of the burial space. The Clerk shall also enter in a book to be known as “The Burial Record” the name of the deceased, the date of burial, and age of the deceased, if known. (Ord. 3214, 13-09-2018)
8-11-8: DUTIES OF SEXTON: The Sexton shall, under the direction of the Mayor and Council, have general care of and make general improvements of all spaces in said cemeteries. The Sexton shall dig or allow or cause to be dug graves for burial in a City cemetery; provided that, if the person making application for burial desires to dig a grave, the Sexton shall approve and supervise such excavation and the location thereof. The Sexton shall fill all graves following burial, trim any grass, trees or shrubbery thereon and keep all spaces in a safe and attractive condition. The Sexton shall care for all grounds and foliage in the City cemeteries. The Sexton shall not permit burial without receipt of a Clerk's Certificate. (Ord. 3214, 09-13-2018)

The Sexton may enter upon any part of the cemetery, including any space, with equipment for the purpose of improving the appearance and condition of the space and the general appearance of the cemetery; to remove anything objectionable that may have been placed contrary to cemetery regulations; to remove any dead or dangerous tree, shrub, vine, or neglected fencing, railings, or enclosures; to remove any floral design or piece, which, in the discretion of the Sexton, has become unsightly or does not conform with this Chapter.

Morticians, undertakers, monument companies, contractors, religious representatives, florists, and other individuals or corporations working within a cemetery shall comply with this Chapter and shall perform all work in cemeteries under the direction and with the approval of the Sexton. (Ord. 3214, 09-13-2018)

8-11-9: GRAVE SPACES; DECORATIONS: All winter decorations, including artificial wreaths and sprays, shall be removed by April 1 of each calendar year in both City cemeteries. Artificial flowers, ornamental decorations, and the like, are not allowed at Fielding Memorial between April 15 and October 30 annually. Space owners may improve, cultivate, and care for their spaces and existing trees, shrubs, and plants, in accordance with the City’s Trees and Shrubbery Ordinance and as approved by the Sexton. Space owners may set out plants and flowers in sound wood, concrete, or metal containers of such kind or size on their space(s) as do not interfere in any way with the general landscaping of the cemeteries, as solely determined by the Sexton. (Ord. 3214, 09-13-2018)

8-11-10: GRAVESTONES; GRAVE SPACES: The owner of any space in which a deceased person is buried may install a gravestone at the head of such space with the name of the deceased plainly inscribed thereon, as approved by the Sexton. Every grave space shall be at least five feet (5') deep measured from the surface of the ground to the bottom surface of the grave space opening.

All gravestones shall have a foundation. All gravestones, including foundation for individual spaces, shall be no more than forty inches by twenty-four inches (40”x24”) and shall be flush with the surface of the ground. The location of all gravestones and construction foundations shall be approved by the Sexton.

Gravestones shall not be altered or moved without permission of the Sexton.

No person shall erect any monument, gravestone, headstone, or grave marker above the surface of the ground within the following sections of Fielding Memorial Park Cemetery: Wasatch Lawn, Sunset, Roselawn, Forest Lawn, Pinehurst, Parkhurst, Valley View, Nauvoo Lawn, LaCresta, Whispering Hope, Cloverdale, Willowlawn, Comorah, Restlawn and Memory Lane or as otherwise designated. (Ord. 3214, 09-13-2018)
8-11-11: IMPROVEMENT OF CEMETERY SPACES; GROUND MAINTENANCE: No person shall erect or maintain any fence, corner post, coping, wall, hedge, or boundary of any kind upon any space in a City cemetery. No trees or shrubs shall be planted in Rose Hill Cemetery or Fielding Memorial Cemetery without permission from the Sexton. No person shall grade the ground or land above any grave space in City cemeteries, or build any tomb, mausoleum, or cenotaph upon the same, except with the permission and under the supervision of the Sexton. The Sexton shall, whenever requested, furnish the true lines of a space according to the official survey and shall prevent and prohibit the marking of the same in any manner prohibited by this Chapter.

No trees or shrubs shall be planted or removed without the consent of the Sexton. Tree removal shall be at the space owners’ expense. Any trees or shrub in a City cemetery may be removed at the directive of the Sexton.

No steps, structures, or landscapes are allowed in a City cemetery, except for the following when approved by the Sexton:

At-grade concrete or similar durable material fencing located within the space boundaries.
Concrete or similar durable material benches attached to an at-grade concrete or similar durable material foundation that extends at least four (4”) inches beyond the bench in all directions, and located within the space boundary. (Ord. 2230, 5-22-97; Ord. 2638, 4-13-06; Ord. 3214, 09-13-2018)

8-11-12: PROHIBITED USES AND ACTIVITIES: Snow mobiles, off-highway vehicles, and all-terrain vehicles are prohibited in City cemeteries, unless in use by or at the direction of the Sexton.

There shall be no gathering of persons in excess of seventy-five (75) people without prior City approval (except during or incidental to a funeral occurring concurrent with a burial). (Ord. 2230, 5-22-97; Ord. 3214, 09-13-2018)

8-11-13: BURIALS: No cremation burials shall occur without the permission of the Sexton. The Sexton shall be given no less than forty-eight (48) hours or two (2) business days advanced notice of any funeral (in order to allow opening of the cemetery space). The opening and closing of a cemetery space shall be done by the Sexton. Winter burials (during extreme weather conditions) will occur only at the discretion of the Sexton. Burials will occur only on days the City is conducting business (i.e. including Saturdays but excluding Sundays and City-recognized holidays), unless specifically authorized by the Sexton and the City is reimbursed for all expenses related to such special burial.

Burial spaces are for human remains only. There shall be no animal remains in a City cemetery. The maximum following burials are allowed per burial space:

1. Coffin burial;
2. Coffin burial and up to two (2) cremation burials without vaults;
3. Two (2) cremation burials with vaults;
4. Three (3) cremation burials without vaults.

Every wooden casket shall be enclosed in a vault.

All burials shall be within a standard durable vault installed or constructed in each burial space before burial.
All cremation burials shall be in a permanently sealed container approved by the Sexton.

All burial spaces shall be opened and closed under the direction and control of the Sexton, except removals and reinterments supervised directly by the local health department. (Ord. 2230, 5-22-97; Ord. 2444, 4-11-02; Ord. 2508, 9-11-03; Ord. 2619, 9-8-05; Ord. 2664, 09-14-06; Ord. 2885, 10-27-11; Ord. 3214, 09-13-2018)

8-11-15: DISINTERMENT: No disinterment of an occupied grave space shall occur until and unless any and all permits and licenses and written authorization required by law for such disinterment on an occupied grave have been obtained from any applicable state or county agency, government unit or official, and a copy of the same has been filed by the City. The City reserves its authority to refuse to allow a disinterment of an occupied grave (and to refuse to issue a City disinterment permit for the same) when the disinterment of an occupied grave is not done pursuant to a court order issued by a court of competent jurisdiction.

8-11-4: TRANSFER OF SPACE BY OWNER; TRANSFER FEE: A cemetery space may be transferred from one (1) person to another by surrendering the original or copy of original certificate to the Clerk, and requesting the Clerk to issue a new certificate to the subsequent owner. The Clerk shall issue a new certificate upon the payment of a fee, as set from time to time by Resolution of the Council, and upon execution by the original owner(s) or legal representatives of an assignment of such certificate. (Ord. 3214, 09-13-2018)
CHAPTER 12

AIRPORT PASSENGER FACILITY CHARGES

SECTION:

8-12-1: Purpose
8-12-2: Definitions
8-12-3: Imposition of the PFC
8-12-4: Administration and Collection of PFC
8-12-5: Term of Fee
8-12-6: Establishment of Airport PFC Fund
8-12-7: Audit of Airport PFC Fund
8-12-8: Record Keeping and Auditing of Collecting Carriers
8-12-9: Use of PFC


8-12-2: DEFINITIONS: For the purposes of this Ordinance words and phrases used herein shall have the meanings ascribed below:


AIRPORT: The City of Idaho Falls Regional Airport.

ADMINISTRATOR: The Administrator of the Federal Aviation Administration pursuant to Section 1113(e) of the Federal Aviation Act of 1958.

ALLOWABLE COST: The reasonable and necessary costs of carrying out an Approved Project including costs incurred prior to and subsequent to the approval by the Administrator to impose a PFC, Bond Financing Costs and payments for debt service on bonds and other indebtedness incurred to carry out such Project.

APPROVED PROJECT: A Project for which the use of PFC revenue has been approved by the Administrator.

BOND FINANCING COSTS: The costs of financing a bond, including such costs as those associated with issuance, underwriting discount, original issue discount, capitalized interest, debt service reserve funds, initial credit enhancement fees and initial trustee and paying agent fees.

CHARGE EFFECTIVE DATE: January 1, 1993, or such other date the City is authorized by the Administrator to impose a PFC.

CHARGE EXPIRATION DATE: The date on which air carriers are to cease to collect a PFC, as determined by the Administrator.

CITY CODE OF THE CITY OF IDAHO FALLS 495
CITY: The City of Idaho Falls, Idaho.

COLLECTING CARRIER: An issuing carrier or other carrier collecting a PFC, whether or not such carrier issues the air travel ticket.

DEBT SERVICE: Payments for such items as principal and interest, sinking funds, call premiums, periodic credit enhancement fees, trustee and paying agent fee, coverage and remarketing fees.

ISSUING CARRIER: Any air carrier or foreign air carrier that issues an air travel ticket or whose imprinted ticket stock is used in issuing such ticket by an agent.

PASSENGER ENPLANED: A domestic, territorial or international revenue passenger enplaned in the States in scheduled or nonscheduled service on aircraft in intrastate, interstate or foreign commerce.

PASSENGER REVENUE: A person receiving air transportation from an air carrier for which remuneration is received by the air carrier. Such term includes persons traveling under a frequent flyer program or other promotional program based upon frequency of prior paid revenue travel. Air carrier employees or others receiving air transportation against whom token service charges are levied are considered non-revenue passengers. Infants for whom a token fare is charged are not considered as revenue passengers.

PFC: A passenger facility charge imposed by the City on Passengers Enplaned at the Airport.

PROJECT: Airport planning, Airport land acquisition or development of a single project a multi-phase development program or a new airport for which PFC financing is sought or approved by the Administrator.

REGULATIONS: The regulations set forth in Part 158, Volume 56, No. 103, Federal Register as published on May 29, 1991, or as may be subsequently adopted by the Federal Aviation Administration.

STATE: A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands and Guam. (Ord. 3003, 4-23-15)

8-12-3: IMPOSITION OF PFC: Subject to the Regulations and the approval by the Administrator, a PFC in an amount set from time to time by Resolution of the Council, is hereby imposed on all Passengers Enplaned at the Airport. (Ord. 2964, 8-14-14)

8-12-4: ADMINISTRATION AND COLLECTION OF PFC: The imposition, collection, administration, investment and accounting of PFC’s shall be in accordance with the Act and the Regulations now in force or as may be hereafter adopted in the manner required by the Act or other applicable law.

8-12-5: TERM OF FEE: The PFC shall be imposed on the Charge Effective Date and shall cease to be collected on the Charge Expiration Date.
8-12-6: ESTABLISHMENT OF AIRPORT PFC FUND: A fund known as the Airport PFC Fund is hereby established into which all revenues derived from the collection of PFC's shall be deposited. The City Controller shall maintain a separate account for each approved Project for which PFC revenue has been approved by the Administrator. The accounting record shall identify the PFC revenue received from the collecting carriers, interest earned on such revenue, the amounts used on each approved project and the amount reserved for currently approved projects.

8-12-7: AUDIT OF AIRPORT PFC FUND: At least annually during any period in which a PFC is collected, held or used, the City Controller shall obtain an audit of said fund by an accredited independent public accountant. The accountant shall express an opinion of the fairness and reasonableness of the procedures for receiving, holding and using PFC revenue. The accountant shall also express an opinion whether the quarterly report required under Section 158.63 of the Regulations fairly represents the net transactions within said fund. The audit may be performed specifically for the fund or conducted as part of an audit under the Single Agency Audit Act of 1983 (31 U.S.C. Section 7501, et seq.), provided the Airport PFC Fund is specifically addressed by the auditor. Upon request, a copy of the audit shall be provided to each collecting carrier that remitted PFC revenue to the City in the period covered by the audit, and to the Administrator.

8-12-8: RECORD KEEPING AND AUDITING OF COLLECTING CARRIERS: All collecting carriers shall establish and maintain for the City an accounting record of PFC revenue collected, remitted, refunded and compensation retained pursuant to this Ordinance and the Regulations. Such accounting records shall be made available to the City and the Administrator at all reasonable times and shall be audited in accordance with the Regulations.

8-12-9: USE OF PFC: All PFC revenue collected pursuant to this Ordinance, including any interest earned after such revenue has been remitted to the City, may be used only to finance Allowable Costs of an Approved Project at the Airport. The use of such PFC revenue shall further be restricted in accordance with the limitations set forth in the Regulations.
CHAPTER 13
PUBLIC FIBER OPTIC NETWORK

SECTION:

8-13-1: Definitions
8-13-2: Purposes
8-13-3: Ownership of the Fiber Optic Network
8-13-4: Management of Fiber Optic Network Access
8-13-5: No Obligation to Serve
8-13-6: Applicability to Fiber Optic Network Customers
8-13-7: Application for Fiber Optic Network Access
8-13-8: Transfer of Access Rights Prohibited
8-13-9: Rates and Schedules
8-13-10: Limitations Upon Delivery of Fiber Access
8-13-11: (Reserved)
8-13-12: Limitations Upon Number of Fiber Strands
8-13-13: Rights of Way
8-13-14: Billing, Collection, and Termination of Utility Service
8-13-15: Involuntary Termination of Fiber Optic Access
8-13-16: Plans for Payment of Delinquent Accounts
8-13-17: Liability for Interruptions of Service
8-13-18: Shut-down for Repairs
8-13-19: Temporary Suspension of Demand By Customer
8-13-20: Interference with Access
8-13-21: Protection of Customer's Equipment:
8-13-22: Backbone Extensions
8-13-23: Distribution System Extension
8-13-24: Distribution Design
8-13-25: Cost Sharing for Distribution Fiber Extensions
8-13-26: Schedule of Rates
8-13-27: Tampering with Fiber Optic Network Prohibited
8-13-28: Theft of Fiber Optic Access

8-13-1: DEFINITIONS: Certain terms used in this Chapter shall have the meanings ascribed below:

ACCESS NODE: An enclosure with splice trays on the fiber optic system that provides access for splicing a customer connection to the public distribution system.

BACKBONE ACCESS POINT: An enclosure with splice trays on the backbone ring that provides access for splicing distribution fiber to the fiber backbone.

BUFFER TUBE: A plastic tube containing a bundle of fiber strands within a fiber optic cable.

CITY: The City of Idaho Falls, Idaho.
CUSTOMER: A retail or wholesale user of fiber optic access provided through the Fiber Optic System.

DARK FIBER: A fiber strand without any light flowing through it.

DIRECTOR: The Director of the Idaho Falls Power, or his or her designee.

DISTANCE RATIO: The ratio resulting from the total lineal length of a distribution fiber line measured between the fiber backbone and an initial fiber customer's point of delivery, as the denominator, and the distance between any subsequent customer's point of delivery and the initial connection to the backbone, as the numerator.

DISTRIBUTION FIBER: A fiber that connects the fiber backbone ring to a customer's facility fiber, customer access drop, or other customer owned equipment.

FIBER BACKBONE: A network of dark fiber, generally consisting of 96 or more strands of single mode fiber located within the public right of way, all as more particularly shown on the Fiber Map maintained on file at the offices of Idaho Falls Power.

FIBER MAP: A map depicting the location of the public fiber backbone, including any amendments thereto, as may be determined by the Director of Idaho Falls Power.

FIBER OPTIC CABLE: A cable containing a bundle of fiber strands.

FIBER OPTIC CUSTOMER: A person who applies for or receives fiber optic access from the City.

FIBER OPTIC PATHWAY: A physical pathway within a fiber strand through which pulses of light may be transmitted.

FIBER STRAND: An individual glass fiber, roughly the thickness of a human hair, that is capable of carrying a distinct signal transmitted in the form of pulses of light.

INTERCONNECTION WORK: All activities necessary to establish fiber pathway(s) between two or more locations.

INTERNET SERVICE PROVIDER OR "ISP": A Fiber Optic Customer who provides fiber optic access or internet services to Retail Internet Users for monetary gain or other consideration.

INITIAL DISTRIBUTION FIBER CONSTRUCTION COSTS: The total cost of designing and constructing an extension of distribution fiber between the backbone and an initial customer's point of delivery. Such amount shall be established by the Director following the construction of such distribution line by the City based upon the reasonable and actual costs incurred by the City, whether performed by City crews or by an independent contractor.

INITIAL FIBER CUSTOMER: A customer who constructs a distribution line at his or her sole expense, which line benefits or potentially benefits a subsequent fiber customer who connects to and uses any portion of such line or facilities constructed by such initial customer.
POINT OF DELIVERY: A physical location or point that separates the public fiber optic system from the equipment owned by the customer, typically a patch panel located within the customer's premises.

PUBLIC FIBER OPTIC SYSTEM: A publicly owned transmission medium or network of optical fiber cables owned by the City, along with all associated electronics and equipment, capable of carrying a digital signal or data by means of electric lightwave impulses.

RETAIL INTERNET USER: A consumer or end-user of internet or data transmission services or fiber optic access who does not sell or provide such services to other customers for monetary gain or consideration.

ROUTE-DIVERSE RING: A fiber network design which provides redundant signal pathways along two different routes between two or more locations.

SPLICE: A physical connection between the ends of two fiber strands.

SPLICE POINTS: A point on the fiber backbone where segments of the fiber backbone are interconnected to each other. Drop cables may also connect distribution fiber to the fiber backbone at these locations.

SUBSEQUENT FIBER CUSTOMER: Any fiber customer who connects to or uses any portion of a fiber distribution line constructed at the sole expense of an initial fiber customer.

USAGE RATIO: A ratio used to calculate the portion of the initial distribution fiber construction costs to which an initial customer is entitled to recover from a subsequent fiber customer at the time the subsequent customer connects a drop cable to any portion of a distribution line constructed at the expense of the initial customer. The ratio shall consist of a fraction for which the total distribution line capacity constructed by the initial customer's the denominator, and the subsequent customer's projected usage of such capacity, as the numerator.

UTILIT Y EASEMENT: A permanent right to use real property for the purpose of constructing, operating and maintaining publicly owned utility services, including but not limited to a fiber optic cable for communications services.

WHOLESALE CUSTOMER: A Fiber Optic Customer who leases one or more fiber optic pairs for the purpose of selling or providing internet or data services to other retail users for monetary gain or consideration. (Ord. 2835, 4-22-10; Ord. 3003, 4-23-15)

8-13-2: PURPOSES: The purposes of this Chapter are as follows:

(A) To enhance access to and encourage cost effective use of high speed data transmission lines serving publicly-owned facilities.

(B) To enhance the growth and continued economic vitality of the City by providing to the City residents a high speed, modern and efficient means of communicating information and transmitting electronic data.
(C) To manage and regulate competing demands for use of the public right-of-way by minimizing the installation of duplicative communications lines and facilities on, over or under the public right-of-way.

(D) To reduce the cost of maintaining the sidewalk, pavement and public facilities located within the public right-of-way by minimizing the number of pavement cuts and dislocation of other public facilities necessitated by the construction or installation of duplicative communications lines.

(E) To foster competition among communication providers by providing open access to the publicly-owned fiber network.

(F) To reduce the cost of communication services to City residents by eliminating anti-competitive pricing schemes or monopolistic practices which contribute to higher costs for communications services.

(G) To preserve and enhance the ability of private retail communication providers to serve their clientele without undue competition or regulation by a tax-supported entity. (Ord. 2835, 4-22-10)

8-13-3: OWNERSHIP OF THE FIBER OPTIC NETWORK: There is hereby established as a division within Idaho Falls Power, the Public Fiber Optic Network System. Management of the public fiber optic network shall be vested solely in Idaho Falls Power, subject to such rules, regulations, and operational guidelines as may be approved by the Council. Notwithstanding the foregoing, to the extent possible all operational costs, charges, expenses, revenues and receipts attributable to or derived from the operation of the public fiber optic network shall be separately accounted for or fairly apportioned between the fiber optic system and the electrical energy generation, distribution & transmission system, in order to establish fair, equitable and non-discriminatory rates for the delivery of fiber optic access, separate and apart from the establishment of electrical. (Ord. 2835, 4-22-10; Ord. 3003, 4-23-15)

8-13-4: MANAGEMENT OF FIBER OPTIC NETWORK ACCESS: The City shall have exclusive right to sell, lease and deliver fiber optic access on the public fiber network. (Ord. 2835, 4-22-10)

8-13-5: NO OBLIGATION TO SERVE: The City shall have no obligation to serve or provide fiber optic access to any customer. The City reserves the right to limit or refuse access to the public fiber network at its sole discretion, provided access shall not be denied or limited on the basis of race, color, religious creed, ancestry, age, national origin, familial status, veterans status, disability, sexual orientation, and/or gender expression/identity. (Ord. 2835, 4-22-10; Ord. 3075, 7-14-16)

8-13-6: APPLICABILITY TO PUBLIC FIBER OPTIC NETWORK CUSTOMERS: The provisions of this Chapter shall apply only to the delivery of fiber optic access and related services across the publicly-owned fiber optic network. Nothing herein shall be construed or deemed to regulate the delivery of communications or data services over or across lines, facilities, or equipment owned by a private communications provider, or which may be located in the public right-of-way pursuant to a franchise, lease, or other license or privilege granted by the City. (Ord. 2835, 4-22-10)
8-13-7: APPLICATION FOR FIBER OPTIC NETWORK ACCESS:

(A) Fiber optic access shall not be delivered to any customer until the customer or the customer’s authorized agent personally appears at the office of Idaho Falls Power, 140 S. Capital Ave., Idaho Falls, Idaho, and makes written application for delivery of fiber optic access. Such application shall be in such form as may be determined by the Director and the City Attorney. The Director may require appropriate identification of any customer or agent making application for fiber optic access. Customers requesting any fiber optic access which contemplates substantial extensions of the fiber backbone or the construction of significant enhancements or additions to the fiber optic network at public expense, as determined by the Director, may be required to present site plans, improvement plans, feasibility plans, financial statements and financial guarantees contemporaneously with such application and, where the customer is allowed to amortize payments for such extensions, enhancements, or additions, the customer shall allow the City to audit all relevant financial records of such customer. Any customer who willfully gives materially false information in the customer’s application or who shall falsely represent the customer’s identity shall be guilty of a misdemeanor and fiber optic access to such customer may be subject to summary termination of access.

(B) In the event installation of distribution fiber is necessary in order to provide the access requested by the customer, the cost of designing and installing such distribution line shall be borne by the customer, subject to the customer's recovery of a portion of such cost from a subsequent customer, in the manner set forth in this Chapter. The Director may require the initial customer to pay the estimated costs of such design and installation to the City prior to and as a condition for the commencement of the installation of such distribution fiber by the City. The design and/or installation of such distribution fiber may be performed by the City or by an independent contractor hired by the City. In the event the installation is performed by an independent contractor, the City shall deliver a copy of the contractor's bid to the customer prior to its issuance of a notice to proceed to such independent contractor. In the event the actual costs of such construction exceed the initial estimate by the Director, such excess shall be paid to the City within fifteen (15) days after the delivery of an itemized invoice to the customer by the City, reflecting the total amount of the design and construction costs incurred by the City in constructing such distribution fiber extension. In the event such construction costs are less than the estimate, then such difference shall be returned to the initial customer within thirty (30) days after the substantial completion of such distribution fiber extension. In no event will the City undertake the design or construction of a new distribution line, if the customer is delinquent in their payment of the access charges set from time to time by Resolution of the Council or is otherwise in default of the customer’s obligations under this Chapter. Upon approval by the Director and where the amount to be amortized does not exceed ten thousand dollars ($10,000), payment for distribution fiber may also be made in monthly installments not to exceed a total of sixty (60) months. Written agreement approved by the Director and signed by the customer shall be required for amortization. Amortization shall not be allowed if the Retail Internet User for whom the distribution fiber is being constructed or installed has paid the wholesale customer for such distribution fiber or has agreed to pay for such distribution fiber in full. Amortization shall not be allowed until the wholesale customer has demonstrated a satisfactory payment history of not less than one (1) year with the public fiber system unless approved by the Director. If the Retail Internet User for whom such distribution fiber has been provided thereafter discontinues the customer’s service agreement with the customer with whom the City has executed an amortization agreement, such Retail Internet User shall not be allowed to again use such distribution fiber unless the new service provider for such Retail Internet User agrees to assume and pay the entire balance then owed on
the account of such distribution fiber. (Ord. 2835, 4-22-10; Ord. 3003, 4-23-15; Ord. 3075, 7-14-16)

8-13-8: TRANSFER OF ACCESS RIGHTS PROHIBITED: All rights to fiber access and any rights or privileges arising under the provisions of this Chapter shall not be transferred to any person or entity without the prior express written approval of the Director. (Ord. 2835, 4-22-10; Ord. 3075, 7-14-16)

8-13-9: RATES AND SCHEDULES: Fiber optic access supplied by the City shall be billed in accordance with the schedule of rates set forth in this Chapter and as set from time to time by Resolution of this Council. The schedule of rates is designed to provide monthly rates for access supplied to the customer. Selection of appropriate rates shall be based on the customer's choice of available services, subject to the approval of the Director. (Ord. 2835, 4-22-10; Ord. 3075, 7-14-16)

8-13-10: LIMITATIONS UPON DELIVERY OF FIBER ACCESS:

(A) Access shall be delivered only to premises or facilities which are in conformity with the provisions of this Chapter, the International Building and/or Fire Codes, the Zoning Ordinance and all other ordinances of the City.

(B) Access will be supplied under a given rate schedule only to such points of delivery as are adjacent to the public fiber optic system of the City and provided that the public fiber optic system has the technological capability to meet the customer's service needs under the rate schedule applicable thereto. The City shall not be obligated to construct extensions or install additional fiber access facilities necessary to meet a fiber customer's needs except as explicitly authorized by the Director.

(C) No portion of the Fiber Optic System shall be used by any customer for the purpose of extending a fiber line or providing fiber access to any person whose point of delivery is not located within the territorial limits of the City.

(D) No backbone fiber pair shall be leased for a period of less than one year. (Ord. 2835, 4-22-10)

8-13-11: (RESERVED):

8-13-12: LIMITATIONS UPON NUMBER OF FIBER STRANDS: Consistent with the stated purpose of this Chapter to promote competition among communication service providers in Idaho Falls, no customer may lease or use more than six fiber pairs, twelve strands, at any given time, except as expressly provided for in a written agreement signed by an authorized agent of the City. (Ord. 2835, 4-22-10)

8-13-13: RIGHTS OF WAY: The City may condition fiber optic access upon the customer's dedication or conveyance to the City of a utility easement for the installation, operation and maintenance of the City's fiber, equipment and apparatus, over, across and upon property owned or controlled by the customer or the customer's landlord. The City may also require such dedication or conveyance to be by warranty deed or it may require execution of an indemnification covenant assuring good and merchantable title thereto. Such utility easement may also be used for the purpose
of providing fiber optic access to other fiber customers of the City. Such utility easement shall permit access thereto by the City employees, at all reasonable hours or at any time in any emergency situation. By acceptance of or submission of an application for fiber optic access, the customer shall be deemed to waive any claim for damages to the customer's property or equipment located within such utility easement, arising from the operation or maintenance of the fiber optic system therein. Such acceptance or application shall also be deemed to constitute a waiver of any claim for damages arising from a taking or any severance damages with respect to a customer's underlying fee simple interest. (Ord. 2835, 4-22-10)

8-13-14: BILLINGS: Billings for fiber optic access shall be rendered upon a monthly basis. Bills rendered for fiber optic access are payable upon receipt and shall become delinquent ten (10) days from the date on which the billing was rendered. When the delinquent date falls on a legal holiday, the next regular business day shall be considered to be the delinquent date. Any billing that is not paid prior to the delinquent date shall be assessed a delinquency fee of five percent (5%) of the amount of the billing. Bills shall be deemed paid upon receipt at the office of the City Treasurer. Bills may be rounded to the nearest even dollar. Any account not paid by the past due date shall bear interest at the maximum rate permitted by law, commencing upon the past due date. (Ord. 2835, 4-22-10)

8-13-15: VOLUNTARY TERMINATION OF FIBER OPTIC ACCESS:
(A) In the event that any customer desires to discontinue receiving fiber optic access from the City, the customer shall give advance notice in writing to the Director of such desire. Customers will be responsible for all fiber optic access made available to the customer's premises until the date set forth in the customer's notice and for any construction or distribution costs provided or incurred by the City in order to make access available to such customer. In the event any customer fails to give written notice in the manner set forth above, the customer shall be responsible for any and all bills or monthly service charges incurred until such notice is given, or until another customer makes application to receive fiber optic access at the same point of delivery, regardless of whether or not the original customer actually utilized the fiber optic access for their own purposes.

(B) In the event any Wholesale Customer terminates service prior to the expiration of one (1) year from the date service was first commenced, then the entire unpaid balance for the service charges remaining for such one (1) year period, shall become immediately due and payable upon delivery of the customer's notice of termination. (Ord. No. 2736, 2-14-08; Ord. 2835, 4-22-10; Ord. 3075, 7-14-14)

8-13-16: BILLING, COLLECTION, AND TERMINATION OF UTILITY SERVICE: Billing, collection, and termination for utility service shall be processed pursuant to the City billing, collection, and termination policy established by Council Resolution. (Ord. No. 2736, 2-14-08; Ord. 2835, 4-22-10; Ord. 2964, 8-14-14; Ord. 3039, 11-24-15)

8-13-17: LIABILITY FOR INTERRUPTIONS OF ACCESS: The City shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of fiber optic access from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy or failure or inadequacy of distribution fiber, backbone fiber or appurtenant facilities. The City disclaims any express or implied warranty of merchantability or fitness for a particular purpose and the delivery of fiber optic access to any
customer shall not be construed as or deemed to be the delivery of goods under the Idaho Uniform Commercial Code. By acceptance of fiber optic access, the customer agrees to, and shall be deemed to, waive any and all claims for damage or loss to the customer's lines, facilities, or communications equipment caused by any act or omission of the City, however, nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or malicious act of the City, or its agents. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15)

8-13-18: SHUT-DOWN FOR REPAIRS: For the purpose of making necessary repairs, upgrades or changes to its backbone or distribution facilities, or to avoid damage to property or to persons, the City may without prior notice to the customer suspend fiber optic access for such periods as may be reasonably necessary to make such repairs, upgrades or changes and the City shall not be liable for damage of any kind, direct or indirect, as a result of such discontinuance of fiber optic access. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15)

8-13-19: TEMPORARY SUSPENSION OF DEMAND BY CUSTOMER: Whenever a customer suspends operation due to strikes, action of any governmental authority, act of God or the public enemy or other force majeure, the customer shall continue to be obligated to pay the monthly fiber optic access charge provided in the rate schedules set forth in this Chapter and for any distribution costs established in his or her Fiber Optic Access Application, irrespective of such temporary suspension. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15)

8-13-20: INTERFERENCE WITH ACCESS: The City may refuse to supply fiber optic access where there is a possibility that the delivery of access may seriously impair or disrupt access to any other customers, or which may disrupt the operation of the public fiber optic backbone. The City may also disconnect fiber access if the customer's connection is seriously impairing access to any other customers. The City may also, without prior notice, suspend or disconnect access to any customer using the public network for the purposes of delivering any virus, spam, spyware, denial of service attacks, or any other illegal or malicious purpose which has the effect of or is intended to impair or impede the operation of the public fiber optic system, the internet, or any public or private computer or computer network connected thereto or for the purpose of obtaining illegal or unauthorized access to other computers or networks connected to the public fiber optic system. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15)

8-13-21: PROTECTION OF CUSTOMER'S EQUIPMENT: The customer is solely responsible for the selection, installation and maintenance of all equipment and wiring, other than the City's apparatus, on the customer side of the point of delivery. The customer shall install and maintain suitable protective devices and equipment to protect life and property from harm or injury and the City assumes no duty to warn or otherwise assist the customer in the selection or use of such protective devices. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15)

8-13-22: BACKBONE EXTENSIONS: Extensions of the fiber backbone ring may be made at the sole discretion of the City. Access to the backbone ring will be provided through the construction of distribution system facilities as described in this Chapter. The City reserves the right to upgrade, overbuild and rebuild the network in any fashion which may result in new backbone or distribution and service drop boundaries. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15; Ord. 3075, 7-14-16)
8-13-23: DISTRIBUTION SYSTEM EXTENSION: An extension of the distribution system is any continuation of, or branch from, the nearest available existing distribution fiber or new branch from the nearest available Backbone Access Point. The City may make extensions of the distribution system at customer expense as provided for in the schedule of rates set forth in this Chapter and as set from time to time by Resolution of this Council. All distribution construction work shall be undertaken solely by the City and at the expense of the customer. An estimate of construction costs will be provided for customer review and approval prior to beginning any construction activity and the City may require the customer to pay such estimate in full prior to the commencement of such system extension. In the event that actual costs exceed the estimate, the customer shall pay such excess before fiber optic access is provided. Customers may elect to pay for the construction costs of such extension in full at the time of connection to the publicly owned fiber system or may, with the approval of the Director, amortize such costs over a period not to exceed sixty (60) months, where the amount to be amortized does not exceed up to ten thousand dollars ($10,000). Notwithstanding the customer's participation in the construction costs of any extension of the distribution system, ownership and control of such extensions shall remain solely with the City. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15; Ord. 3075, 7-14-16)

8-13-24: DISTRIBUTION DESIGN: All new connections between the backbone fiber and the end use location shall be designed by authorized City personnel. Distribution will begin at the most appropriate Backbone Access Point or Access Node as determined by the Director and shall run to a patch panel installed at the desired customer location. Distribution spurs, connecting the backbone to the Access Nodes, will be constructed of single mode fiber cable conforming to City standards. Routing will follow the public right-of-way and be placed on publicly owned poles to the maximum extent possible. Service drops will terminate at a patch panel in the end user's premises. The patch panel shall be supplied by the City and the cost thereof shall be included in the customer distribution costs payable in accordance with this Chapter. All customers shall allow authorized personnel of the City access to the customer's patch panel at all reasonable times and any customer who refuses to allow such access shall be subject to termination of fiber access in the manner set forth in this Chapter. (Ord. 2835, 4-22-10; Ord. 3075, 7-14-16)

8-13-25: COST SHARING FOR DISTRIBUTION FIBER EXTENSIONS:

(A) The purpose of this Section is to establish an equitable method for sharing the cost of constructing distribution fiber lines among customers who use such lines in common. The initial construction costs to extend any portion of a distribution fiber line shall be borne entirely by and shared among customers using such distribution fiber, in the manner set forth in this Section.

(B) Each initial fiber customer who constructs distribution fiber at that customer’s sole expense shall be entitled to recover a portion of the initial distribution fiber construction costs from any subsequent fiber customer(s) who connect to any portion of the distribution fiber constructed by such initial fiber customer. Such cost recovery shall be based upon the amounts paid by the initial customer to the City pursuant to the provisions of this Chapter. Such cost recovery shall be limited to collection only from a subsequent fiber customer who connects to such portion of the distribution fiber within five (5) years from the date that the distribution fiber was placed in service. Such cost recovery shall be undertaken in the manner set forth in this Section and shall be limited to a customer’s recovery of not more than seventy-five percent (75%) of the initial distribution fiber construction costs paid by the initial fiber customer.
(C) At the time any subsequent customer applies for connection to a distribution fiber line that was constructed at the sole expense of the initial customer,

The Director shall notify the initial customer and the subsequent customer(s) of the cost recovery amount to be paid by the subsequent customer(s). Such cost recovery amount shall then be paid to the City in a lump sum or, upon the approval of the Director, in amortized payments in accordance with the terms of an amortization agreement approved by the Director prior to the delivery of fiber optic access to the subsequent customer(s). Any approved amortized payment amount shall not exceed ten thousand dollars ($10,000). Upon receipt of the cost recovery amount, the City shall credit the payment by the subsequent customer(s) against the initial customer's monthly bill. In no case shall the total cost recovery from a subsequent customer exceed seventy-five percent (75%) of the initial customer’s construction cost.

(D) A subsequent customer who connects to any portion of the distribution fiber constructed at the initial customer's expense shall pay no more than twenty-five percent (25%) of the initial customer’s remaining amortized balance. Ord. 3075, 7-14-16)

(E) All rights to cost recovery shall terminate upon the initial customer's termination of access to the public fiber optic system or at the expiration of five (5) years from the date of the distribution fiber being placed into service, whichever first occurs. (Ord. 2835, 4-22-10; Ord. 3039, 11-24-15; Ord. 3075, 7-14-16)

8-13-26: SCHEDULE OF RATES:

(A) Applicability: This rate schedule applies to all customers receiving Dark Fiber access from the City. The interconnection fees set forth below shall be paid by the customer prior to the customer’s connection to the Fiber Optic System.

(B) Fees: The following fees associated with dark fiber optic access provided by the City shall be set from time to time by Resolution of the Council and be paid as a condition for the commencement or continuation of fiber optic access to a customer:

<table>
<thead>
<tr>
<th>Backbone Dark Fiber Service Fees</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Backbone Service Fee, per single pair fiber, per month</td>
<td>One fiber pair over entire backbone ring. Payable as per Sections 8-13-14 and 8-13-15 hereof.</td>
</tr>
<tr>
<td>New customer connection fee</td>
<td>Applied toward engineering and new account costs. Payable prior to connection.</td>
</tr>
</tbody>
</table>

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<tr>
<th>Distribution Costs &amp; Fees</th>
<th>Notes</th>
</tr>
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<tbody>
<tr>
<td>Construction Costs</td>
<td>As determined by the Director, payable prior to connection or amortized in a Fiber Optic Access Agreement.</td>
</tr>
<tr>
<td>Distribution engineering fee</td>
<td>Applied towards engineering, design, layout</td>
</tr>
</tbody>
</table>
and testing costs.

<table>
<thead>
<tr>
<th>Distribution Access Fee</th>
<th>One distribution pair per drop, payable monthly as per Section 8-13-14 and 8-13-15.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cost Sharing Payments or Credits</td>
<td>If applicable, calculated on job by job basis and payable as per section 8-13-26 hereof.</td>
</tr>
</tbody>
</table>

(C) Monthly Backbone Service Fee: Each customer shall pay the specified monthly fee covering cost of service for the use of one or more single pairs of fiber traversing the entire backbone ring, regardless of actual distances used. Only that route shown on the Network Map as dark fiber backbone is included in the monthly backbone service fee. Any route not covered by the dark fiber backbone is considered part of the distribution system and service drop network, and shall be subject to additional service charges or fees as specified in this Chapter.

(D) New Customer Connection Fee: At the time application of access is made, each customer shall pay a new customer access fee in the amount set forth in subsection (B) of this section. The new customer connection fee is a one time, non-refundable, account activation fee, which is intended to cover the City's initial costs for the following services:

1. Engineering costs associated with fiber strand allocations
2. Fiber splicing activities
3. Continuity testing of the associated backbone fiber strands
4. Account and billing setup

(E) Distribution Installation Costs: Distribution installation costs will be estimated on a case by case basis. The City's network engineering staff will determine the most economical route to provide distribution service or access to the customer location that satisfies the City's requirements for reliability, efficiency, splice limitations and system loss. An estimate of the construction costs will be presented to the customer for approval prior to commencing any work. Once the estimate is accepted by the customer, the construction will be done by the City with actual final costs being billed to the customer. The Director may require such estimate to be paid in full not less than thirty (30) days prior to the start of construction, or alternatively if the customer desires to execute an amortization agreement, then such executed amortization agreement shall be delivered to the Director not less than thirty (30) days prior to the start of construction. Any amounts incurred in excess of such estimate shall be billed to and paid by the customer prior to the delivery of fiber optic access.

(F) Distribution Engineering Fee: A one-time service drop fee for engineering will be charged for each service drop requested by the customer and shall be added to and included within the estimated installation fees and costs. The fee will cover costs for the preparation of installation and construction cost estimates, schedule of work, route map, fiber loss budget, splicing and activation and certification test results.

(G) Distribution Access Fee: A monthly distribution access fee shall be charged to each subsequent fiber customer served from the fiber optic network by an initial fiber customer covered under the backbone service fee for the use of one distribution pair of fiber. This fee covers the City's operation and maintenance costs for the distribution line.
(H) Cost Sharing Payment or Credit: Upon receipt of an application for access from a subsequent customer, the Director shall calculate the cost-sharing charge to be borne by the subsequent customer, according to this Chapter. The charge is only applicable if a subsequent customer makes use of a portion of a distribution line constructed by an initial customer or if another subsequent customer makes use of a distribution line paid for by a preceding subsequent customer.

(I) Disconnect or Reconnect Fees: In the event any wholesale customer requests a disconnection or reconnection of any Retail Internet User served by such wholesale customer, to any distribution fiber or to the fiber backbone, the Director may charge a disconnect or reconnect fee to such wholesale customer, in an amount equivalent to the reasonable cost of labor or materials incurred by the City in making such disconnection or reconnection. (Ord. 2835, 4-22-10; Ord. 2964, 8-14-14; Ord. 3075, 7-14-16)

8-13-27: TAMPERING WITH FIBER OPTIC NETWORK PROHIBITED: No person shall connect to, adjust, tamper with or make any alteration or addition to the Fiber Optic System, without having first obtained express permission from the Director. Any person who willfully or maliciously causes damage to, interference with or obstruction to the efficient operation of the Fiber Optic System shall be guilty of a misdemeanor. Any person who causes such damage shall in addition to any criminal fines or penalties, be liable to the City for any reasonable damages which may be proximately caused by such damage or interference. Such amounts may be included upon the customer's regular monthly billing statement for utility service and upon the customer's failure or refusal to pay such charges, fiber optic access or any other public utility service provided by the City, may be terminated in accordance with the procedures set forth in this Chapter. (Ord 2835, 4-22-10; Ord. 3039, 11-24-15)

8-13-28: THEFT OF FIBER OPTIC ACCESS: It shall be unlawful for any person to make any connection to or install or construct any facility or equipment with the specific intent of obtaining fiber optic access from or making use of the Fiber Optic System, without paying for such access or without paying the fees and charges set forth in this Chapter. (Ord 2835, 4-22-10; Ord. 3039, 11-24-15)
CHAPTER 14
CONSTRUCTION SITE EROSION CONTROL

SECTION:

8-14-1: Purpose
8-14-2: Definitions
8-14-3: Permits
8-14-4: Review and Approval
8-14-5: Erosion Control Plan
8-14-6: Inspections
8-14-7: Training and Certification
8-14-8: Enforcement
8-14-9: Effective Date

8-14-1: PURPOSE: This Chapter sets forth requirements for construction site operators and enables the City to comply with the Clean Water Act. The objectives of this Chapter are:

(A) To protect storm water, ground water, water bodies, water courses, and wetlands from construction activities pursuant to and consistent with the United States Clean Water Act (33 U.S.C. Section 1251 et. Seq.) as the same is currently in effect or as may be amended hereafter.

(B) To manage and control the amount of pollutants in storm water discharges, soil erosion, sediment discharge, and mud and dirt deposits on public roadways caused by or the result of construction activities.

(C) To regulate construction activities, storm water management and soil conservation measures are utilized at the site of any construction activity.

(D) To ensure adequate drainage, storm water management and soil conservation measures are utilized at the site of any construction activity. (Ord. 2886, 11-10-11)

8-14-2: DEFINITION OF TERMS:

Certain terms used in this Ordinance shall have the following meanings:

CHANGE IN GRADE: Any excavation, placement, removal or relocation of top soil or subsurface materials in any manner which results in or causes a change in grade or elevation of any portion of a Construction Site.

CITY: The City of Idaho Falls.

CITY ENGINEER: The City Engineer or a designated agent.

CONSTRUCTION ACTIVITY: The construction, repair, rehabilitation of any structure or improvement to real property which involves any excavation, grading, transportation or movement of topsoil or native rock to or from a Construction Site or which creates a significant chance that soil erosion will transport soil from the Construction Site in the public gutters or sewer.
CONSTRUCTION SITE: Any parcel of real property greater than 4,000 square feet in surface area located wholly in or partially within the City and where a Construction Activity or Change in Grade is undertaken or intended to be undertaken. (Ord. 2915, 02-28-13)

8-14-3: PERMITS:

(A) Permit Required. It shall be unlawful for any person to undertake any Construction Activity or Change in Grade without first obtaining a permit under this Chapter.

(B) No Construction Activity Without Permit. It shall be unlawful for any person to engage in any Construction Activity or Change in Grade except in compliance with an erosion control plan approved by the City Engineer in accordance with the provisions of this Chapter.

(C) Exemptions: The following construction of land disturbing activities do not require a permit:

1. Minor land disturbance activities performed by the property owner or an employee of the property owner, including, but not limited to, home gardening, commercial and residential landscaping and landscaping maintenance and minor repair work.

2. Repair of structures and utility work which occurs entirely on a residential lot in which no sediment leaves the property.

3. Drain tiling, tilling, or planting incidental to agricultural crops, and harvesting of agricultural, horticultural, or silvicultural crops.

4. Emergency repairs or emergency work necessary to protect life, limb, or property.

5. The cleaning and/or removal of debris and obstructions from any existing ditch, canal, creek or river.

6. The repair, installation or removal of any water line, sewer line, electric line, CATV line, gas line or computer cable occurring solely within the public right-of-way.

(D) Application for Permit. Each application for an erosion control permit shall be upon a form provided by the City and shall bear the mailing address and legal description of the site, the name(s) and address(es) of the owner(s) of the site, the names and mailing addresses of all contractors or persons who engage in any Construction Activity on the Construction Site, the name of the certified erosion control contractor who will have responsible charge of the Construction Activity, the name of any engineer or professional consulting firm retained by the applicant to design, inspect and have responsible charge of such Construction Activity. The application shall be accompanied by a filing fee, the amount of which shall be set by a Resolution adopted by the City Council. Each application shall be accompanied by an erosion control plan, the contents of which shall be established
by the City Engineer. The erosion control plan must bear the signature and certification number of an individual who possesses a valid and current certification in accordance with Section 8-14-7 of this Chapter and who has demonstrated competence in proper methods of erosion control and who is knowledgeable of federal, state, and local laws and regulations regarding erosion control and methods of preventing pollution and deposit of sediment into natural streams.

(E) Compliance with Plan Required. It shall be unlawful for any person to engage in, control, or otherwise have responsible charge of any Construction Activity or Change in Grade which does not comply with an approved erosion control plan. (Ord. 2915, 02-28-13)

8-14-4: REVIEW AND APPROVAL:

(A) The City Engineer will review each application for an erosion control permit and shall, in writing:

(1) Approve the permit application;

(2) Approve the permit application with reasonable conditions as may be necessary to secure the objectives to this ordinance; or

(3) Disapprove the permit application and provide the reasons for such disapproval in writing. (Ord. 2886, 11-10-11)

8-14-5: EROSION CONTROL PLAN:

(A) the contents and form of the erosion control plan shall be established by the City Engineer. The Building Division shall make such information available to contractors, developers and property owners upon request.

(B) The erosion control plan shall address the best management practices (BMPs) to assure the following standards or practices are followed during land disturbing activities:

(1) Erosion, sediment, or discharge of pollutants, resulting from construction activities, which enter onto public property or private property not controlled by the permit holder, shall be eliminated to the maximum extent practicable.

(2) All necessary action shall be taken to minimize the depositing and tracking of mud, dirt, sand, gravel, rock or debris on the public rights-of-way. The owner of the site of the construction activity or the permit holder shall be responsible for any clean-up of the public rights-of-way or private property not controlled by the permit holder necessitated by any tracking or depositing of mud, dirt, sand, gravel, rock, or debris, or shall reimburse the City for any expenses incurred by the City to clean-up the applicable area.
(3) Construction ramps shall be constructed of material that will not erode or deteriorate under adverse conditions and shall not be placed in a manner so as to interfere with the passage of storm water runoff.

(4) No debris, dirt, aggregate or excavated materials, or construction materials shall be placed on the public rights-of-way unless permitted by the City Engineer or his designee. In addition, public sidewalks shall not be removed, blocked, or otherwise rendered unusable by construction activity, equipment or materials, or portable toilets, unless a safe, usable alternate walkway, which meets the design standards of the American with Disabilities Act, is placed on the same side of the right-of-way by the contractor.

(5) No owner or lessee of real property shall allow the property to be unoccupied, unused, vacant or undeveloped after the topsoil has been disturbed or the natural cover removed, unless control measures are undertaken to prevent mud, sand, dirt, and gravel from mitigating offsite and entering the public rights-of-way or a storm water system. Soil or aggregate stockpiles shall not be stored on unoccupied, vacant, unused, or undeveloped property unless appropriate control measures are in place and reviewed and permitted by the City Engineer. This provision is not meant to prevent individual homeowners from accepting title of land that is not yet landscaped, and such homeowners will not be in violation of this Ordinance.

(6) All temporary erosion and sediment control measures shall be removed after final site stabilization. Trapped sediment and other disturbed soil areas resulting from the removal of temporary measures shall be permanently stabilized within thirty (30) days from the removal of the temporary measures.

(7) Grading, erosion control practices, sediment control practices, and waterway crossings shall meet the design criteria set forth in the Best Management Practices for Idaho Cities and Counties, published by the Idaho Department of Environmental Quality.

(8) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

(9) Phasing shall be required on all sites greater than thirty (30) acres with the size of each phase to be established at plat review and as approved by the City Engineer. (Ord. 2886, 11-10-11; Ord. 3003, 4-23-15)

8-14-6: INSPECTIONS:

(A) The City Engineer or designated agent shall make inspections, approve the work completed, and/or notify the permit holder when the work fails to comply with the erosion control plan...
and permit as approved. A copy of the erosion control plan shall be maintained at the Construction Site at all times while construction work is being conducted. To obtain inspections, the permit holder shall notify the Building Division at least two (2) working days before the start of construction, installation of sediment and erosion measures, completion of final grading and close of construction season or final landscaping.

(B) The purpose of inspections is to determine compliance with the control plan and its effectiveness. All inspections are to be documented in written form.

(C) Filing of an application with the Building Division is deemed approval and authorization for such inspections at reasonable times. (Ord. 2886, 11-10-11; Ord. 3003, 4-23-15)

8-14-7: TRAINING AND CERTIFICATION:

(A) Any person who successfully completes a City approved training program in construction erosion control shall be recognized as a certified erosion control contractor. Fees for the issuance of such certification shall be set by resolution of the City Council.

(B) City certifications shall expire on December 31 of the third calendar year following issuance of the certification. A change of employment has no effect on the validity of such certification. (Ord. 2915, 02-28-13)

(C) Certifications from other cities, states or associations may be accepted upon approval of the City Engineer. (Ord. 2886, 11-10-11)

8-14-8: ENFORCEMENT:

(A) If the City Engineer or designated agent determines a violation of the approved erosion control plan is occurring or has occurred, the permit holder may be notified by a correction notice. Such notice shall contain a description of the violation and provide a time period in which corrective action must be taken.

(B) If the corrective action is not taken, a stop work order may be placed on the site or a citation may be issued.

(C) If no reasonable effort at corrective action is made or if necessitated by an emergency, the City Engineer may cause the corrective action to be performed and shall assess the actual and administrative costs of such performance against the property owner.

(D) A stop work order may be issued at any time Construction Activities or Changes in Grade are being undertaken without a valid, current permit. (Ord. 2886, 11-10-11)

8-14-9: EFFECTIVE DATE: This Chapter shall be effective with respect to any Construction Activity or Change of Grade which commences or occurs on or after the effective date of this Chapter. (Ord. 2886, 11-10-11)
TITLE 9
MOTOR VEHICLE AND BICYCLE REGULATIONS

CHAPTER: SUBJECT:
1 Traffic Regulations
2 Traffic Control Signs and Signals
3 Speed Regulations
4 Public Parking
5 Snow Removal Parking Restrictions
6 Parking on Private Property
7 Bicycles
CHAPTER 1
TRAFFIC REGULATIONS

SECTION:

9-1-1: Applicability of Regulations
9-1-2: Applicability of State Laws
9-1-3: Enforcement
9-1-4: Obedience to Police Officers
9-1-5: Construction Crews
9-1-6: Following Fire Engines
9-1-7: Parking Near Emergency Vehicles
9-1-8: Crossing Fire Hose
9-1-9: Engine Compression Brakes
9-1-10: Prohibition of ATVs, Utility-type Vehicles and Motorbikes on Public Streets:

9-1-1: APPLICABILITY OF REGULATIONS: The provisions of this Title shall apply to the operation of all vehicles upon the streets, alleys, and places within the City. “Vehicle” as used in this Title shall have the same meaning as Idaho Code Section 49-123(V)(2) “vehicle”, as amended. (Ord. 3146, 11-21-2017)

9-1-2: APPLICABILITY OF STATE LAWS: All traffic and motor vehicle laws of the State of Idaho codified in Title 49, Idaho Code, and any rules and regulations promulgated by the Idaho Department of Law Enforcement pursuant thereto, shall apply to the operation of all vehicles upon the streets and alleys of the City, except to the extent such laws or regulations are expressly inconsistent with the provisions of this Code. The City Clerk shall keep at least one (1) copy of this Chapter available for public use and examination in his or her office at all times.

9-1-3: ENFORCEMENT: Any person who violates any traffic or motor vehicle law within the City shall be guilty of an infraction and shall be punishable in accordance with the provisions of Title 49, Chapter 15, Idaho Code, as the same now exists or as amended hereafter. All peace officers shall follow the procedures set forth in such Chapter when issuing citations for infractions.

9-1-4: OBEDIENCE TO POLICE OFFICERS: Any person who fails or refuses to comply with any lawful order or direction of any police officer of the City, or any other police officer of Bonneville County or the State of Idaho, shall be guilty of a misdemeanor.

9-1-5: CONSTRUCTION CREWS: This Chapter shall not apply to the operation of any vehicle while the operator is actually engaged in the construction, repair or maintenance of any street, alley, sidewalk, curb, gutter or any utility located therein, if such operator is an employee of the City or has a permit or is otherwise lawfully authorized to perform such work.

9-1-6: FOLLOWING FIRE ENGINE: Any person who operates a vehicle within 500 feet of any fire engine, equipment or vehicle responding to a fire alarm, except persons operating a police, fire or public safety vehicle, shall be guilty of an infraction.

CITY CODE OF THE CITY OF IDAHO FALLS 516
9-1-7: PARKING NEAR EMERGENCY VEHICLES: Any person who parks any vehicle within 500 feet of any police, fire or emergency vehicle responding to a fire alarm shall be guilty of an infraction.

9-1-8: CROSSING FIRE HOSE: Any person who drives any vehicle over any fire hose of the Fire Department while such hose is being used to suppress any fire, without the consent of a police officer or the fire official in command, shall be guilty of an infraction. (Ord. 3003, 4-23-15)

9-1-9: ENGINE COMPRESSION BRAKES: No person shall, while operating a motor vehicle within the City, apply or otherwise use "Jake Brakes", Engine Compression Brakes, or any similar braking system which emits a clearly audible noise when measured at a distance of fifty (50) feet directly from the source. Engine Compression Brakes are defined as a braking system which uses compressed air from a motor vehicle's engine to slow the vehicle. Any person who violates this ordinance shall be guilty of an infraction. (Ord. No. 2407, 02-08-01)

9-1-10: PROHIBITION OF ATVS, UTILITY-TYPE VEHICLES AND MOTORBIKES ON PUBLIC STREETS:

(A) PURPOSE: The purpose of this Ordinance is to enhance and protect the public safety, ensure that traffic laws are obeyed and prohibit the riding of all-terrain vehicles, utility-type vehicles, and motorbikes on city streets and highways.

(B) DEFINITIONS: For purposes of this Section, the following definitions shall apply:

(1) All-Terrain Vehicle: "All Terrain Vehicle" or "ATV" means any vehicle as defined in Idaho Code §67-7101(1).

(2) Utility-Type Vehicle: "Utility-Type Vehicle", or "UTV" means any vehicle, as originally manufactured, which is defined under Idaho Code §67-7101(15).

(3) Motorbike: "Motorbike" means a vehicle as defined under Idaho Code §67-7101(9). However, a motorbike, which has been converted and approved for unrestricted motorcycle registration pursuant to Idaho Code §49-402, and which has been certified that as compliant with federal motor vehicle safety standards by the Idaho Department of Transportation Department of Motor Vehicles, shall not be subject to the prohibitions set forth in this section.

(C) AREAS CLOSED TO ATV, UTV, OR MOTORBIKE USE: No person shall drive or operate an ATV, UTV, or Motorbike on any street, sidewalk, alley, jogging path, park, golf course or other public way located within the City of Idaho Falls.

(D) EXCEPTIONS: Nothing herein shall prohibit the operation of an ATV, UTV, or Motorbike under the following circumstances:
(1) The use of ATV's or UTV's by the City of Idaho Falls personnel for public property or public facility maintenance.

(2) The use of ATV's or UTV's for snow removal from driveways, sidewalks or parking lots. Any traveling in prohibited areas must be directly related to such snow removal.

(3) The use of ATV's or UTV's by the City of Idaho Falls Law Enforcement officers.

(4) The use of ATV's or UTV's for events or activities, in which the user or owner of the machine has received a permit from the Police Department for use of the machine during that event or activity. The Police Department may place reasonable restrictions on such permits, for safety purposes.

(E) PENALTY: Any violation of this section shall be an infraction. (Ord 2799, 2-12-09)
CHAPTER 2

TRAFFIC CONTROL SIGNS AND SIGNALS

SECTION:

9-2-1: Adoption of Uniform Manual
9-2-2: Display of Unauthorized Signs or Signals
9-2-3: Tampering with Traffic Control Devices

9-2-1: ADOPTION OF UNIFORM MANUAL: The City hereby adopts 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 Idaho Department of Law Enforcement pursuant to the provisions of Idaho Code Section 49-201. All traffic signs, signals and devices installed within the City shall conform to the provisions of such Uniform Manual, except as otherwise expressly ordered by the Council.

9-2-2: DISPLAY OF UNAUTHORIZED SIGNS OR SIGNALS: Any person who places, maintains or displays upon any street, alley, public right of way or private property any unauthorized sign, signal, marking or device which imitates or resembles any official traffic control sign, signal or device is guilty of a misdemeanor. Such signs, signals or devices may be summarily removed by any police or fire or public safety officer or any employee of the Public Works Department. (Ord. 3003, 4-23-15)

9-2-3: TAMPERING WITH TRAFFIC CONTROL DEVICES: Any person who tampers, alters, injures, destroys, removes, defaces or knocks down any official traffic control sign, signal or device, without lawful authority to do so, shall be guilty of a misdemeanor.
CHAPTER 3
SPEED REGULATIONS

SECTION:

9-3-1: Basic Rule
9-3-2: General Speed Limit
9-3-3: Establishment of Speed Limits
9-3-4: Minimum Speed Regulations

9-3-1: 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.

9-3-2: 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 9-3-3 of this Code.

   (B) Twenty-five (25) miles per hour on all streets except as posted in accordance with Section 9-3-3 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 9-3-3 of this Code.

   (D) Ten (10) miles per hour in all alleys except as posted in accordance with Section 9-3-3 of this Code. (Ord. 2292, 11-12-98)

9-3-3: 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.

9-3-4: 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
PUBLIC PARKING

SECTION:

9-4-1: General Parking Restrictions
9-4-2: Parking in Alleys Prohibited
9-4-3: Parking in Residential Zones
9-4-4: Repair of Vehicles on Public Streets
9-4-5: Storage of Vehicles, Motorhomes and Trailers on Public Streets
9-4-6: Manner of Parking
9-4-7: Unattended Motor Vehicle
9-4-8: General Parking Restriction
9-4-9: Parking at Airport
9-4-10: Parking at City Aquatic Center
9-4-11: Impounding Vehicles
9-4-12: Impounding Fees
9-4-13: Payment of Towing and Storage Fees
9-4-14: Establishment of Storage Fees
9-4-15: Parking Zones Established
9-4-16: Designation of Parking Zones
9-4-17: Manner of Parking
9-4-18: Operating Time Defined, Exceptions
9-4-19: Parking in Loading Zones
9-4-20: Unlawful Parking
9-4-21: Parking For Persons With Disabilities
9-4-22: Designation of Parking Spaces For Persons With Disabilities
9-4-23: Enforcement on Private Property
9-4-24: Notice of Parking Violations
9-4-25: Penalties
9-4-26: Additional Remedies Preserved

9-4-1: GENERAL PARKING RESTRICTIONS: Any person who parks a vehicle, except when necessary to allow movement of other vehicular traffic or pursuant to the direction of a peace officer or traffic control device, in any of the following designated places, shall be guilty of an infraction, to-wit:

(A) On a public sidewalk.

(B) Within any portion of a public or private driveway or entrance to a public street.

(C) Within an intersection.

(D) Within fifteen (15) feet of a fire hydrant.

(E) Within a crosswalk.

(F) Within twenty (20) feet of a crosswalk located at any intersection.
(G) Within thirty (30) feet of the approach to any flashing beacon, stop sign or traffic control signal.

(H) Between a designated safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless a traffic regulatory sign indicates a different length is allowed.

(I) Within fifty (50) feet of the nearest rail of a railroad crossing.

(J) Within twenty (20) feet of the driveway entrance to any fire station or within seventy-five (75) feet of such entrance when parking on the side of the street opposite such entrance, when regulatory signs indicate such prohibition.

(K) Beside or opposite any street excavation or obstruction in a manner which obstructs traffic.

(L) Upon any street or portion thereof in a manner which blocks or interferes with the regular flow of vehicular traffic.

(M) Upon any bridge or elevated structure upon or part of a public highway.

(N) At any place where traffic regulatory signs prohibit such parking.

(O) In any fire apparatus access road as defined in the Interational Fire Code.

(Ord. 3253, 05-13-19)

9-4-2: PARKING IN ALLEYS PROHIBITED: Any person who parks a motor vehicle in any alley within the City for any purpose other than to load or unload such vehicle in a reasonably expeditious fashion shall be guilty of an infraction. Parking for purposes of loading or unloading a vehicle shall be permitted only if a clearance of at least ten (10) feet in width between the adjacent building or other structures is left on each side of the vehicle.

9-4-3: PARKING IN RESIDENTIAL ZONES: Any person who parks a motor vehicle having a gross vehicle weight greater than 10,000 pounds in any residentially-zoned district within the City shall be guilty of an infraction unless such parking is necessary to load or unload such vehicle in an expeditious manner.

9-4-4: REPAIR OF VEHICLES ON PUBLIC STREETS: Any person who uses any street or alley within the City for the purpose of repairing any vehicle, except for temporary emergency repairs, shall be guilty of an infraction.

9-4-5: STORAGE OF VEHICLES, MOTORHOMES AND TRAILERS ON PUBLIC STREETS:

(A) It shall be unlawful for anyone to use City streets or alleys for storage of motorhomes or trailers. Trailers and motorhomes can only be parked upon a street or alley within the City for the purposes of loading and unloading for a period not to exceed two 24-hour periods in a 7-
day time period. Any person who parks or allows a trailer or motorhome to be parked upon any street or alley within the City for a period in excess of this time in the same location shall be guilty of an infraction.

(B) Any person who parks or allows a vehicle to be parked upon any street or alley within the City for a period of 48 or more consecutive hours in the same location shall be guilty of an infraction.

(C) Any vehicle, motorhome or trailer unlawfully parked or stored may be removed by or under the direction of any peace officer and may be impounded in accordance with the provisions of this Chapter.

(D) For the purposes of this section, a vehicle shall be considered to be parked "in the same location" notwithstanding movement of the vehicle to another location on a public street or alley within 500 feet in any direction of the original location of the vehicle. "Motorhome" is hereby defined as set forth in Idaho Code § 49-114(12). "Trailer" is hereby defined as set forth in Idaho Code § 49-121(6). (Ord. 2890, 01-22-12)

9-4-6: MANNER OF PARKING: Except as otherwise provided in this Chapter, any person who parks or allows to be parked any vehicle, in the following manner shall be guilty of an infraction, where:

(A) any part of the bumper closest to the curb face is at a distance greater than eighteen inches (18") from the curb face, where the area is designated for angle parking; or

(B) any of the wheels or rims are on top of the curb, behind the back of the curb, or behind the gutter flow line of the curb. (Ord. 3146, 11-21-2017)

9-4-7: UNATTENDED MOTOR VEHICLE: Any person who owns or has control of any motor vehicle and who leaves the vehicle without first stopping the engine, locking the ignition and removing the key therefrom, or who parks such vehicle upon a grade without turning the front wheels to the curb or side of the street, shall be guilty of an infraction.

9-4-8: GENERAL PARKING RESTRICTION: Any person who parks or allows any vehicle to be parked upon any street in violation of any sign restricting parking within such area, shall be guilty of an infraction. All such parking restrictions shall be established only by resolution of the City Council, after receiving the recommendation of the Traffic Safety Committee.

9-4-9: PARKING AT AIRPORT:

(A) Any person who parks or allows a vehicle to be parked at any time of the day or night in the following areas, shall be guilty of an infraction, to-wit:

(1) International Way.

(2) That portion of North Skyline Drive located north of International Way.

(3) That portion of Borah Street located north of International Way.
(4) That portion of Foote Drive located north of International Way.

(5) Any ramp, runway, taxiway or area within the Idaho Falls Regional Airport where signs prohibiting such parking have been posted, except as expressly authorized by the Director of Aviation.

Notwithstanding the foregoing, the Council may designate areas within or upon such streets where parking may be allowed, provided signs allowing such parking are prominently displayed.

(B) Any person who parks a motor vehicle unattended for any period of time or any person who parks a motor vehicle for a period of time greater than the minimum amount of time to load or unload passengers and their luggage, within the passenger loading and unloading zone designated by visible signs at the entrance to the Idaho Falls Regional Airport, shall be guilty of an infraction, then the minimum penalty shall be the sum of $25.00. (Ord. 2432, 10-25-01; Ord 2598, 2-12-09; Ord. 3003, 4-23-15)

9-4-10: PARKING AT CITY AQUATIC CENTER:

(A) Overflow Parking Lot Established: An overflow parking lot is established for the purpose of parking of vehicles owned or operated by patrons of the City Aquatic Center. The overflow parking lot is located at 640 South Lee, immediately east of the City Aquatic Center located at 149 7th Street, Idaho Falls, Idaho.

(B) Overflow Parking Permitted: Except as otherwise provided in this Chapter, whenever all parking spaces within the public parking lot immediately adjacent to the City Aquatic Center are occupied, patrons of the City Aquatic Center shall be permitted to park vehicles owned or operated by them in the overflow parking lot.

(C) Restrictions on Use of Overflow Parking Lot: It shall be unlawful for any person who is neither a patron of the City Aquatic Center nor an employee of School District No. 91 to park any vehicle in the overflow parking lot at any time. It shall be unlawful for any patron of the City Aquatic Center to park or to leave parked any vehicle in the east seventy-four feet (74') of the overflow parking lot between the hours of seven o'clock (7:00) a.m. and five o'clock (5:00) p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday.

9-4-11: IMPOUNDING VEHICLES: Any peace officer may remove, cause to be removed and impound any vehicle parked in violation of the provisions of this Chapter.

9-4-12: IMPOUNDING FEES: The owner of any motor vehicle or trailer that has been impounded by the Police under any provision of this Code or any law of the State of Idaho shall pay to the City an impound fee in the amount of fifteen dollars ($15) before such vehicle or trailer shall be released.

9-4-13: PAYMENT OF TOWING AND STORAGE FEES: The owner of any motor vehicle or trailer that has been duly impounded, removed from the City streets, towed or stored at the direction of the Police Department shall pay a reasonable towing and storage fee before such vehicle or trailer may be released. The towing and storage fee shall be paid to the person or company effecting the removal and towing and providing the storage for such vehicle or trailer. If the motor vehicle or trailer
is towed or stored by City personnel, the towing and storage fees shall be paid to the City. (Ord. 3003, 4-23-15)

9-4-14: ESTABLISHMENT OF STORAGE FEES: The City Council shall annually establish by resolution the towing and storage fees provided for in this Chapter.

9-4-15: PARKING ZONES ESTABLISHED: The City Council may establish parking and loading zones upon the streets of the City. The establishment of, and all changes in, such zones shall be only as duly ordered by the City Council and entered in the official minutes of its meeting.

9-4-16: DESIGNATION OF PARKING ZONES: The Chief of Police shall designate all parking and loading zones established by the Council by causing appropriate parking signs to be installed upon the streets clearly informing the public of the location of the parking and loading zones and the parking time allowed therein. Such zones shall be designated by painting or otherwise marking lines upon the street surface, or upon the adjacent curb, designating the area within such zones are located.

9-4-17: MANNER OF PARKING: Any vehicle parked within a parking or loading zone shall be parked entirely within the markings designating one parking space; shall be parked parallel or diagonal to the curb in accordance with the markings of the parking space; and in case of diagonal parking, shall be parked so that the front portion of the vehicle closest to the curb is within eighteen inches (18") of the curb.

9-4-18: OPERATING TIME DEFINED, EXCEPTIONS: Operating time" is that time when parking within parking zones and loading zones is regulated and is the time between eight o'clock (8:00) a.m. and six o'clock (6:00) p.m. of every day. "Operating time" shall not include any Saturday or legal holiday.

9-4-19: PARKING IN LOADING ZONES: Notwithstanding the provisions of this Chapter, a person may park a vehicle in a loading zone for the purpose of unloading persons, supplies or merchandise. Parking in a loading zone or space during "operating time" for any other purpose is unlawful.

9-4-20: UNLAWFUL PARKING:

A. It shall be unlawful for any person to park a vehicle, or, having parked the same, to allow it to remain parked in violation of the regulations of any parking sign located within clear view of a restricted parking area. When the parking sign merely states the duration of time allowed for parking, then the regulation shall be in force only during "operating times." When the sign forbids parking at all times, or at designated times, the regulation is in force at all times, or as stated. Any person who violates this Section shall be guilty of an infraction.

B. A bona-fide resident of the downtown area, as defined in this subsection, may apply for a permit which shall exempt them from any two (2)-hour parking limit established for parking spaces within the off-street City-owned parking lot located between Shoup Avenue on the east, Park Avenue on the west, Broadway Avenue on the north, and Cliff Street on the south. Nothing herein shall exempt a person holding this permit from compliance with other parking limits or restrictions in this Code. For purposes of this subsection, a bona-fide resident of the downtown area must reside
within the area bounded on the west by Memorial Drive and Capitol Avenue, on the south by Cliff Street, on the east by Yellowstone Avenue, and on the north by and including “G” Street at the time of application for the permit and at all times during the validity of the permit. Discontinuance of residency for a period of thirty (30) consecutive days or more shall automatically void the permit. The downtown residents’ permit shall be valid for one (1) year from its issuance. The cost of each permit shall be in an amount set from time to time by Resolution of the Council. Only one (1) permit per licensed driver shall be allowed. The permit shall be displayed in the vehicle as to be visible from outside the vehicle, whenever the permittee parks his or her vehicle in a two-hour parking space. It shall be unlawful to transfer or allow another person to use this permit.

(Ord. 2666, 9-14-06; Ord. 2964, 8-14-14; Ord. 3049, 10-12-15)

9-4-21: PARKING FOR PERSONS WITH DISABILITIES: Any person who parks or allows a vehicle to be parked in any parking space designated for use by persons with disabilities and signed in conformity with the next section of this Code is guilty of an infraction, unless the vehicle is momentarily in the space for the purpose of allowing a disabled person to enter or leave the vehicle, or unless special license plates or a temporary card issued for the disabled pursuant to Idaho Code §49-410 is displayed on the vehicle. For the purposes of this section, the registered owner of a vehicle who has expressly or impliedly consented to the use of his or her vehicle shall be deemed to have allowed the parking of such vehicle by the person to whom such consent was given. The term “person with a disability” shall have the same meaning ascribed in Idaho Code §49-117(7)(b).

(Ord. 2280, 7-9-98)

9-4-22: DESIGNATION OF PARKING SPACES FOR PERSONS WITH DISABILITIES: For the purposes of the preceding section, a parking space designated for persons with disabilities shall be any parking space or area upon which there is posted immediately adjacent thereto, and visible from each stall or space, a sign which is at least thirty-six inches (36”) above the ground, displaying the international symbol of accessibility that shall have the same proportions shown in Idaho Code §49-410. (Ord. 2280, 7-9-98)

9-4-23: ENFORCEMENT ON PRIVATE PROPERTY: The provisions of Sections 9-4-21 and 9-4-22 shall be enforceable with respect to handicapped parking spaces upon public property and private property open to public use.

9-4-24: NOTICE OF PARKING VIOLATIONS:

(A) A notice of a violation of the parking regulations of this Chapter may be issued by any police officer or by any person duly authorized by the Chief of Police. The notice of violation shall be issued by placing it on the windshield of an illegally parked vehicle, in a secure manner, or in a prominent place upon the vehicle. A separate notice shall be issued for each parking regulation violated. If the violation is overtime parking, a separate notice shall be issued for each hour or fraction of an hour that, the owner or operator of the vehicle allows it to remain parked in violation of this Chapter.

(B) The notice of violation shall state the date and time when it is issued and the nature of the parking violation observed. The notice shall advise the owner or operator of the vehicle that he or she must admit the violation and pay the penalty or deny the violation and appear before an Idaho Falls Police Department hearing officer within fourteen (14) days of the date the notice is
issued, in default of which a summons and criminal complaint may be filed with the Bonneville County Magistrate Court and served upon such person.

(C) Any person issued a parking notice may enter an admission in the following ways:

1. Depositing the notice of violation with the amount of penalty stated thereon in any collection box designated by the Police Department;

2. Mailing the notice of violation with the amount of the penalty stated thereon to the address indicated on the notice; or

3. Presenting the notice together with the amount of the penalty indicated thereon at the office of the City Treasurer.

(D) Within fourteen (14) days of the date of issue of the notice of violation of this Chapter, any person issued a parking notice may deny the violation and may request a hearing before a hearing officer with the Idaho Falls Police Department by contacting the hearing officer.

1. The hearing officer shall schedule a hearing within ten (10) working days after being contacted by a person denying a parking violation.

2. During a hearing, the hearing officer shall outline the hearing process, state the allegation of the violation, and permit the person denying the parking violation to present statements, photographs, or other evidence.

3. Within ten (10) days after the hearing, the hearing officer shall make a determination whether the violation occurred.

   a. If the hearing officer determines that the parking violation occurred, the hearing officer shall file a summons and criminal complaint with the Bonneville County Magistrate Court and shall refer the parking violation for prosecution by the City Attorney Division.

   b. If the hearing officer finds that the parking violation did not occur, the hearing officer shall dismiss the notice of parking violation. (Ord. 2976, 12-11-14; Ord. 3003, 4-23-15)

9-4-25: PENALTIES:

(A) Any person who violates Section 9-4-20 of the City Code is guilty of an infraction and shall, upon conviction thereof, be punishable as follows: If there have been no other citations given to the recipient within the past thirty (30) days, the penalty shall be in an amount set from time to time by Resolution of the Council. If there has been one (1) other citation received in the past thirty (30) days by the recipient, the penalty shall be in an amount set from time to time by Resolution of the Council. If there has been two (2) or more other citations received by the recipient in the past thirty (30) days, the penalty shall be in an amount set from time to time by Resolution of the Council.
(B) Any person who violates the provisions of Section 9-4-21 of this Code is guilty of an infraction and shall, upon conviction thereof, be punishable by a fine in an amount set from time to time by Resolution of the Council.

(C) Any person who violates any other provision of this Chapter, shall be guilty of an infraction, and shall, upon conviction thereof, be punishable by a fine in an amount set from time to time by Resolution of the Council. (Ord. 2926, 09-12-13; Ord. 2964, 8-14-14; Ord. 2976, 12-11-14)

9-4-26: ADDITIONAL REMEDIES PRESERVED: The issuance of a notice of violation shall not be the exclusive remedy for enforcing the parking regulations of this Chapter and all other lawful remedies are reserved, including prosecution by filing a criminal complaint for an infraction violation.
CHAPTER 5
SNOW REMOVAL PARKING RESTRICTIONS

SECTION:

9-5-1: Purpose
9-5-2: Definitions
9-5-3: Snow Removal
9-5-4: Snow Event Parking Restrictions
9-5-5: Other Parking Restrictions
9-5-6: Removal of Vehicles
9-5-7: Payment of Towing and Storage Fees
9-5-8: Penalty

9-5-1: PURPOSE: The purposes of this Chapter are to render the removal of snow and ice from the public streets safe and more economical and efficient; to avoid collisions of snow removal equipment with motor vehicles and reduce the possibility of accidents involving pedestrians; and to provide for more efficient and economical utilization of snow removal equipment. (Ord. 3102, 12-8-16)

9-5-2: DEFINITIONS: Certain terms used in this Chapter shall have the meanings herein given to them:

ARterial or Collector Streets: All Arterial or Collector Streets or portions thereof within the City which are conspicuously signed or designated as “No Parking Any Time.”

Downtown Area: The area within the City located east of and including Memorial Drive, south of and including "G" Street, west of Yellowstone Avenue, and north of and including Cliff Street.

East-West Street: Any street running in a direction within ten degrees (10°) of true east and west or within ten degrees (10°) of being perpendicular to that section of the North Yellowstone Highway between West Broadway and “D” Street.

Motor Vehicle: Every self-propelled vehicle in, upon or by which any person or property is or may be transported or drawn upon a public street or highway, except vehicles or devices used exclusively upon stationary rails or tracks. “Motor Vehicle” does not include vehicles moved solely by human power, electric personal assistive mobility devices and motorized wheelchairs or other such vehicles that are specifically exempt from titling or registration requirements under Title 49, Idaho Code.

Motorcycle: A motor vehicle having a seat or saddle for the use of the rider and designed to travel on no more than three (3) wheels in contact with the ground.

Night-Time Snow Removal Streets: The following public streets and portions thereof within the City:

1st Street: Northgate Mile to Holmes Avenue
19th Street: South Yellowstone Avenue to Rollandet Avenue
Elm Street: North Eastern Avenue to South Boulevard
Milligan Road: Pancheri Drive to the termination of curb and gutter improvements
Pier View Drive: Snake River Parkway to Milligan Road
River Parkway: West Broadway Street to the north property line of 575 River Parkway
Rollandet Avenue: West 21st Street to West 17th Street

NORTH-SOUTH STREET: Any street running in a direction of within ten degrees (10°) of true north and south or within ten degrees (10°) of being parallel to that section of the North Yellowstone Highway between West Broadway and “D” Street. For the purposes hereof, Alice Avenue, Cottage Place, Bremer Drive, Rosehill Drive, Eagle Rock Avenue, Temple Place, and Memorial Drive shall be deemed to be north-south streets.

SNOW AND ICE CONTROL POLICIES AND PROCEDURES MANUAL: A manual detailing the time, place, management, and manner regarding the systematic safe, economical, and efficient manner of removing snow and ice from public streets as adopted from time to time by Resolution of Council.

SNOW EVENT: Any occurrence in which more than two inches (2”) of snow accumulates on the roadway as measured by the Idaho Transportation Department’s 1-15 Idaho Falls Weather Station. The weather station is located near the junction of I-15 and US-20.

SNOW REMOVAL: Practices implemented to clear or remove snow and ice from public streets pursuant to the Snow and Ice Control Policies and Procedures Manual.

TRAILER: Every vehicle without motive power designed to carry persons or property and which is drawn by a motor vehicle.

VEHICLE: Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks.

WINTER SEASON: From midnight local time on November 14 through midnight local time March 15 of the immediately succeeding year.

ZONE A: The area within the City bounded by and including the following streets: Starting at the corner of East Elva Street and North Holmes Avenue; thence running south along Holmes Avenue to East 25th Street; thence running west along East 25th Street to South Boulevard; thence running north along South Boulevard to 21st Street; thence running west along West 21st Street to Rollandet Avenue; thence running north along Rollandet to West 17th Street; thence running west along West 17th Street and Pancheri Drive to the Snake River; thence running north along the east bank of the Snake River to West Elva Street; thence along east along Elva Street to the point of beginning (excluding the Downtown Area, Nighttime Snow Removal Streets, and any Arterial or Collector street within such area).

ZONE B: The entire area within the City, excluding Arterial or Collector streets, Nighttime Snow Removal Streets, the Downtown Area and Zone A. (Ord. 2912, 10-25-12; Ord. 3102, 12-8-16)
9-5-3: SNOW REMOVAL: Snow and ice removal from public streets shall occur pursuant to policies established in the City’s Snow and Ice Control Policies and Procedures Manual and the parking and other restrictions set forth in this Chapter. The City will inform the general public regarding snow and ice removal on public streets relative to a specific Snow Event through local media outlets, the City website, and social media. (Ord. 3102, 12-8-16)

9-5-4: SNOW EVENT PARKING RESTRICTIONS: During the Winter Season, no person shall stop, stand, or park a motor vehicle, motorcycle, or trailer on public streets contrary to the following restrictions:

(1) Arterial and Collector Streets. No parking at any time.

(2) Night-time Snow Removal Streets. No parking from eight o’clock (8:00) p.m. local time until eight o’clock (8:00) a.m. local time of the immediately succeeding day.

(3) Downtown Area Streets.

   (a) North-South Streets. No parking from midnight until eight o'clock (8:00) a.m. on any even calendar day of the month (e.g., two, four, six, eight, …).

   (b) East-West Streets. No parking from midnight until eight o'clock (8:00) a.m. on any odd calendar day of the month (e.g. one, three, five, seven, …).

(4) Zone A Streets.

   (a) North-South Streets. Beginning at a Snow Event, no parking from eight o’clock (8:00) a.m. local time until five o’clock (5:00) p.m. local time on any even calendar day of the month (e.g., two, four, six, eight, …) or until snow removal activities are determined by the Street Superintendent to be completed for the Snow Event.

   (b) East-West Streets. Beginning at a Snow Event, no parking from eight o’clock (8:00) a.m. local time until five o’clock (5:00) p.m. local time on any odd calendar day of the month (e.g. one, three, five, seven, …) or until snow removal activities are determined by the Street Superintendent to be completed for the Snow Event.

(5) Zone B Streets.

   Beginning at a Snow Event, no parking from midnight on a Snow Event day and continuing until snow removal activities are determined by the Street Superintendent to be completed for the Snow Event.
(Ord. 2912, 10-25-12; Ord. 3102, 12-8-16)

9-5-5: OTHER PARKING RESTRICTIONS: In the event any other ordinance, statute or regulation provides for parking restrictions which are more restrictive than those set forth herein, then such other parking restrictions shall be controlling and may be enforced in accordance with the terms of such other ordinance, statute or regulation. (Ord. 3102, 12-8-16)
9-5-6: REMOVAL OF VEHICLES: Any motor vehicle, motorcycle, or trailer parked upon any public street in violation of this Chapter may be removed at the direction of a City police officer and may be towed to another public street, provided the towing and parking of the vehicle on such other public street does not violate the provisions of this Chapter or any other provisions of this Code. The vehicle may also be towed and stored in any public or private storage lot, without prior notice to the owner or operator of the vehicle. Nothing herein shall preclude the issuance of a citation for a separate or subsequent violation of this Chapter. (Ord. 2555, 9-23-04; Ord. 3102, 12-8-16)

9-5-7: PAYMENT OF TOWING AND STORAGE FEES: The owner or operator of any motor vehicle, motorcycle or trailer towed to or stored in a private impound lot pursuant to the preceding section shall be responsible for all reasonable towing and storage charges of the owner of the impound lot. Such charges shall be paid to the private towing company before the vehicle, motorcycle or trailer is released. If the vehicle, motorcycle or trailer is towed to an impound lot owned, controlled or leased by the City, the towing charge shall be paid to the City. If the vehicle, motorcycle or trailer is stored on City property, a reasonable storage fee shall be paid to the City. (Ord. 2555, 9-23-04; Ord. 3102, 12-8-16)

9-5-8: PENALTY: Any person who violates this Chapter is guilty of an infraction and upon conviction thereof shall be punished by a fine in an amount as set from time to time by Resolution of the Council. (Ord. 2189, 10-26-95; Ord. 2555, 9-23-04; Ord. 2964, 8-14-14; Ord. 3102, 12-8-16)
CHAPTER 6
PARKING ON PRIVATE PROPERTY

SECTION:

9-6-1: Parking on Private Property

9-6-1: PARKING ON PRIVATE PROPERTY: Any person who parks or leaves unattended any motor vehicle upon any private property posted in accordance with the terms hereof and located within the City, without the consent of the owner or person thereof, is guilty of an infraction. For the purposes of this Chapter, property is posted when one or more signs legibly printed in the English language are placed upon the premises stating that public parking thereon is prohibited, provided at least one such sign is plainly visible from each vehicular entrance to the premises.
CHAPTER 7
BICYCLES

SECTION:

9-7-1: Definitions
9-7-2: Establishment of Bicycle Paths and Routes
9-7-3: Applicability of Vehicle Traffic Laws
9-7-4: Operation of Motor Vehicles upon Bicycle Path
9-7-5: Right of Way to Cyclists
9-7-6: Two-Way Traffic on Bicycle Paths
9-7-7: General Speed Regulation
9-7-8: Emerging From Alley or Driveway
9-7-9: Carrying Articles
9-7-10: (Repealed)

9-7-1: DEFINITIONS: The following terms whenever used in this Chapter shall have the meaning ascribed below:

BICYCLE: Every device propelled by human power having one wheel at least 16 inches in diameter.

BICYCLE PATH: A way established, marked and signed specifically for the riding of bicycles, and which is not otherwise part of a public street.

BICYCLE ROUTE: A travel way designated specifically for the riding of bicycles along and upon a public street.

RIGHT-OF-WAY: The privilege of immediate use of a bicycle path or bicycle route.

VEHICLE: Every device, in, upon or by which any person or property is or may be transported or drawn upon a street, highway, alley or other public way, except bicycles.

9-7-2: ESTABLISHMENT OF BICYCLE PATHS AND ROUTES: The City Council may by resolution duly passed and approved establish and designate the location of bicycle paths and bicycle routes within the City.

9-7-3: APPLICABILITY OF VEHICLE TRAFFIC LAWS: All motor vehicle traffic laws shall apply with respect to the operation of any bicycle upon any bicycle path or bicycle route, except as expressly otherwise provided in this Chapter or except as the context of such ordinance or statute expressly indicates otherwise.

9-7-4: OPERATION OF MOTOR VEHICLES UPON BICYCLE PATH: Any person who operates a motor vehicle or parks a vehicle upon or across any bicycle path, except at intersections of a path within a public street or alley or when necessary to enter or leave a driveway, is guilty of an infraction.

CITY CODE OF THE CITY OF IDAHO FALLS 534
9-7-5: RIGHT OF WAY TO CYCLISTS: Any person driving any vehicle into or across any bicycle path which intersects a public street or alley or driveway who fails to yield the right of way to any cyclist operating a bicycle is guilty of an infraction.

9-7-6: TWO-WAY TRAFFIC ON BICYCLE PATHS: Any person who fails to pass to the right of any oncoming cyclist on a bicycle path shall be guilty of an infraction.

9-7-7: GENERAL SPEED REGULATION: Any person who operates a bicycle upon any public street, bicycle route or bicycle path at a speed greater than is reasonable and prudent under the conditions then existing, is guilty of an infraction.

9-7-8: EMERGING FROM ALLEY OR DRIVEWAY: Any person operating a bicycle emerging from an alley, driveway or building shall yield the right of way to all pedestrians walking upon any sidewalk or sidewalk area intersecting with the alley, driveway or building egress and upon entering the public street shall yield the right of way to all vehicles approaching on such public street.

9-7-9: CARRYING ARTICLES: Any person who carries any package, bundle or article which prevents the rider from keeping at least one hand upon the bicycle handlebars shall be guilty of an infraction.

9-7-10: (REPEALED) (Ord. 2776, 8-28-08)
TITLE 10
PLANNING AND ZONING

CHAPTER:   SUBJECT:
1          Subdivision Ordinance
2          Bridge and Street Regulations
3          [Reserved]
4          Flood Control
5          Surface Drainage Fees
6          Street Numbering
7          Form Based Code
CHAPTER 1
SUBDIVISION ORDINANCE

SECTION:

10-1-1: Title
10-1-2: Purpose
10-1-3: Definitions
10-1-4: Platting
10-1-5: General Subdivision Standards
10-1-6: Application For Subdivision Approval
10-1-7: Sketch Plat Approval Process
10-1-8: Preliminary Plat Approval Process
10-1-9: Final Plat Approval Process
10-1-10: Engineering Improvement Drawings
10-1-11: Annexation and Initial Zoning In Conjunction with a Plat
10-1-12: Guarantee of Completion
10-1-13: Administration

10-1-1: TITLE: This Chapter shall be known as the Subdivision Ordinance of the City of Idaho Falls.

10-1-2: PURPOSE: The purpose of this Chapter is to:

   (A) Promote the public health, safety, and welfare;

   (B) Provide guidance for future development and growth to the City in accordance with the comprehensive plan;

   (C) Integrate existing streets and highways with proposed transportation plans and other related development of the City;

   (D) Assure safe and adequate transportation systems, water, sewers, storm drains, parks, school sites, and other public uses and facilities;

   (E) Establish reasonable standards of design and uniform procedures for the subdivision and re-subdivision of land.

   (F) Provide for orderly layout, monumenting and legal description of subdivided lands;

   (G) Provide for an orderly and expeditious method of processing applications for subdivisions and re-subdivisions.

10-1-3: DEFINITIONS:

ACCESS PRIVATE: Any street, road, drive, alley, or other privately-owned way used to obtain direct vehicular access to a public street or alley.
ACCESS PUBLIC: Any street, road, highway, alley, or other publicly dedicated and accepted way designed for movement of vehicular traffic.

ALLEY: A public way designed to serve as secondary access to the side or rear of lots that have principal access on some other street.

AGRICULTURAL LAND: Land used strictly for the cultivation of crops or for animal husbandry and which is held in tracts or parcels no smaller than ten (10) acres in area.

AMENDED PLAT: A change in the plat of an approved or recorded subdivision that affects the layout of any street or area reserved for public use or that creates any additional lots.

AREA OF CITY IMPACT: The agreement between the City and Bonneville County, as amended, adopted pursuant to Idaho Code 67-6526 and on file with Community Development Services Department.

BLOCK: A tract of land bounded by streets, alleys, parks, cemeteries, rights of way, or other public boundary lines.

BUILDING: Any structure built for the protection, shelter, or enclosure of persons, animals, chattels, or property of any kind.

CITY: The City of Idaho Falls.

COMMERCIAL ZONE: The I&M-1, I&M-2, M-1, GC-1, CC-1, HC-1, C-1, RSC-1, PB, R-3, and R-3A zones as established by the City Zoning Ordinance or, for property located outside the City, any zoning classification substantially similar to any of the foregoing zoning classifications.

COMMISSION: The Planning and Zoning Commission of the City.

COMPREHENSIVE PLAN: The current, legally adopted and amended Comprehensive Plan of the City.

COUNCIL: The lawfully elected City Council of the City.

CUL-DE-SAC: A local street with only one (1) outlet and having a safe and convenient circuit for traffic reversal.

DEDICATION: The setting apart and acceptance by the Council of land or an interest in land for use by the public.
DEVELOPER: A person who subdivides or proposes to subdivide land, whether as an owner or an agent of an owner.

DEVELOPMENT AGREEMENT: A contract between the subdivider or developer and the City that sets forth the rights, duties, and obligations of all parties regarding the development of a subdivision or tract of land located within or proposed for annexation into the City.

DIRECTOR: The Director of the Community Development Services Department of the City.

EASEMENT: A right of use that is less than ownership, usually for a certain stated purpose.

FRONTAGE: Any side of a lot which abuts a public street.

GRADE: The slope of a road or street expressed as a percentage amount.

IMPROVEMENT: Any alteration to, or construction upon real property, which increases the value or utility of the land.

INDIVIDUAL SEWAGE: A septic tank, seepage tile sewage disposal system, or any other sewage treatment device not connected or intended to serve more than one (1) building, or connected to any other public or private sewage system.

LONG-TERM LEASE: Any transfer of a possessory interest in land for a period greater than thirty five (35) years, subject to a reversionary interest in the transferor.

LOT: A tract, plot, or portion of a subdivision or other parcel of land of sufficient dimension and area to meet applicable City zoning requirements for lot size.

LOT, CORNER: A lot situated at the intersection of two (2) streets.

MODEL HOME: A dwelling unit used for display purposes which typifies the type of units to be constructed in a subdivision.

OWNER: Any person, group of persons, partnership, association trust, corporation, or other legal entity having legal title to, or an interest in, the land proposed to be subdivided.

PLAT, FINAL: The final drawing of the subdivision, including all dedication and acknowledgments thereon, which conforms to the provisions of this Chapter and to Idaho Code.

PLAT, PRELIMINARY: The preliminary drawing or drawings, indicating the proposed manner or layout of the subdivision, including but not limited to, street and utility layout and design, lots, blocks and proposed zoning.

CITY CODE OF THE CITY OF IDAHO FALLS
PLAT, SKETCH: A sketch prior to the preparation of a preliminary plat, or final plat in the case of a short subdivision, used for the purpose of generally discussing the proposed subdivision and any applicable requirements.

PUBLIC IMPROVEMENT: Any drainage system, road, curb, gutter, sidewalk, off-street parking area, sewer or water system, or any other facility for which the City may assume responsibility, or which may affect improvements which are presently the responsibility of the City.

RE-PLAT: A change in the plat of an approved or recorded subdivision that affects the layout of any street or area reserved for public use, or which creates any additional lots.

RE-SUBDIVISION: Same as RE-PLAT.

RECORD OF SURVEY: A field survey and a map that is drawn according to the requirements of Idaho Code, Title 55, Chapter 19, as amended.

RIGHT-OF-WAY: Land occupied or intended to be occupied by a street, sidewalk, railroad, public utility, or other similar public use.

RURAL STREET STANDARD: A typical rural street section as shown in the City Standard Drawings and Engineering Specifications.

SALE: Any transfer of ownership in land, including a contract of sale, whether by deed, contract, plat, or other agreement.

SETBACK: The minimum distance between a building and a property line.

SPITE STRIP: Any strip of land located within or adjacent to a subdivision the primary purpose of which is to allow the owner or developer of any subdivision to control access to a dedicated street or other public facility.

STANDARD DRAWINGS AND ENGINEERING SPECIFICATIONS: City Standard Drawings and Engineering Specifications as adopted by Ordinance.

STREET: The entire width between the boundary lines of a public way.

STREET, DEAD-END: A street or portion thereof, with only one (1) point of ingress and egress.

STREET STANDARDS: The cross sections and construction standards for typical street sections, as set forth in the City Standard Drawings and Engineering Specifications.
SUBDIVISION: The division of land into two (2) or more lots, for the purpose of sale or development, including any re-subdivision of land.

SUBDIVISION, REGULAR: The subdivision of land into five (5) or more lots.

SUBDIVISION, SHORT: The subdivision of land into four (4) or fewer lots.

VARIANCE: A modification of the strict application of this Chapter.

10-1-4: PLATTING:

(A) Platting Required. No person shall subdivide or re-subdivide any piece, parcel, or tract of land, situated within the City’s corporate limits or sell or convey any subdivision or portion thereof, within said subdivision, without first filing a plat approved by the City in conformity with the requirements of this Chapter. Notwithstanding the foregoing, any plat situated within the Area of City Impact, shall be subject to the terms and provisions of the Area of Impact Agreement.

(B) Exclusions. Platting shall not be required for:

(1) A bona fide sale, division or partition of land intended strictly for use thereafter as agricultural land. The intent to construct a residence, apartment commercial or industrial building or other nonagricultural building or buildings upon such tract of land, (as evidenced by a request for a building permit) shall be deemed sufficient evidence that the land described in the application for a building permit is no longer agricultural land and therefore immediately subject to the requirements of this Chapter.

(2) An allocation of land in settlement of an estate of a decedent or the subject of a court decree for the distribution of property.

(3) An involuntary sale of land as result of legal condemnation as defined and allowed in the Idaho Code.

(4) Widening of existing streets to conform to the Comprehensive Plan or by authority of the City.

(5) The acquisition of street right of way by a public agency in conformity with the Comprehensive Plan.

(6) An exchange of land for the sole purpose of straightening property boundaries or enlarging any existing lot, and which does not create additional lots. Notwithstanding, when such an exchange of land occurs, a boundary survey shall be performed and staked by an Idaho licensed surveyor and a Record of Survey depicting the exchange shall be filed with the City Surveyor and recorded with Bonneville County pursuant to Idaho Code.
(C) Amended Plat, Re-subdivision or Replat: Whenever a developer proposes to re-subdivide, replat, or amend the plat of an approved preliminary or final plat or a recorded subdivision, the developer shall file a new application for a subdivision and such application shall be processed in the manner set forth in this Chapter.

(D) Plat Specifications: All plats shall comply with Idaho Code and such other regulations established by the City to ascertain compliance with the provisions of this Chapter. The Director shall, upon request, make available a written copy of all such regulations.

10-1-5: GENERAL SUBDIVISION STANDARDS:

(A) Other Laws and Ordinances: All improvements located upon land which is subdivided shall be designed and constructed in compliance with the following laws, rules and regulations, and standards:

(B) Local Ordinances: The Zoning Ordinance of the City, the International Building Code, the International Residential Code, the International Fire Code, the Uniform Plumbing Code, the International Mechanical Code, the National Electric Code, and all other applicable ordinances of the City.

(C) State Laws: All applicable laws of the State, and all rules and regulations, having the force and effect of law promulgated by the State Department of Transportation or Department of Public Health.


(E) Lot Improvements:

(1) Each lot shall be arranged so that the lot meets all qualifications necessary to secure a City building permit.

(2) Lot dimensions shall conform to the minimum standards in the Zoning Ordinance.

(3) A lot shall have full frontage on, and access to, a dedicated street.

(4) No residential lot shall have direct access to an arterial street. Direct access to arterial streets from commercial or industrial lots shall be permitted only where it can be demonstrated that:

(a) The direct access will not impede the flow of traffic on the arterial street or otherwise create an unsafe condition;
(b) There is no reasonable alternative for access to the arterial street from the proposed point of access;
(c) There is sufficient sight distance along the arterial street from the proposed point of access;

(d) The proposed access is located so as not to interfere with the safe and efficient functioning of any intersection; and

(e) The developer agrees to provide all public improvements, such as turning lanes or signals, necessitated for the safe and efficient use of the proposed access as determined by the City Engineer.

(f) Adequate provisions shall be made for soil preservation, drainage patterns, and debris and waste disposal and collection.

(g) Side lot lines shall be at, or near, right angles or radial to the street within the required front setback. Corner lot lines intersecting right-of-way lines shall be chamfered by a right-of-way line that is determined by the chord of a minimum twenty foot (20’) radius tangent curve.

(h) All property within the subdivision shall be included within a lot or within an area dedicated for public use.

(i) All corner lots zoned RP through R-3, inclusive, shall be a minimum of ten percent (10%) larger in area than the average of all non-corner lots and non-wedge shaped lots within the plat or subdivision. If fewer than ten (10) such lots are shown in the subdivision or plat under consideration, the Director may use other adjacent plats or subdivisions within the surrounding area to calculate the average area of all similarly zoned lots within the vicinity of the subdivision.

(F) Blocks:

(1) Blocks shall be designed in accordance with sound engineering practices and standards, taking into consideration such factors as access, circulation, traffic safety and control, topography, utilities, and service easements.

(2) A residential block length shall not exceed one thousand three hundred feet (1,300’), nor shall it be less than four hundred feet (400’) in length. The Planning and Zoning Commission may recommend (and the Council may require) dedication and construction of hard-surfaced pedestrian ways, where necessary, to provide safe and convenient circulation or access to schools, parks, playgrounds, the river and greenbelt, shopping areas, alternate modes of transportation, planned pathways, or any other community facilities.

(G) Street Requirements:

(1) Every major street in the subdivision shall conform to the major street plan of the City, as set forth in the Comprehensive Plan.
The alignment and width of a previously platted street shall be preserved unless topographical conditions or existing buildings or structures require otherwise.

**Street Classification:**

1. Roadway classifications shall comply with the Comprehensive Plan and the current Access Management Plan provided by the Bonneville Metropolitan Planning Organization (BMPO).

**Cross Sections:**

1. Final geometric design of street sections shall be approved at the time improvement drawings are submitted for approval by the City. Traffic counts and traffic impact studies, when required, shall be performed by the developer and submitted to the City for review and approval.

**Right-of-way Width:**

1. Right-of-way width within a subdivision shall comply with the following:
   
   a. For residential and commercial zones and adjacent to institutional uses in any zone, a sixty foot (60’) minimum right-of-way width is required.
   b. For a residential collector a minimum seventy foot (70’) right-of-way width is required.
   c. For industrial zones a minimum seventy foot (70’) right-of-way width is required.
   d. For arterials and collectors the minimum a right-of-way width required shall be as identified in the Comprehensive Plan.

2. Every residential lot adjoining an arterial street shall comply with the following requirements:
   
   a. Such lots shall have reverse frontage on the arterial streets.
   b. Such lots shall be buffered from the arterial street by an effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural soundproofing.
   c. The minimum lot depth shall be one hundred fifty feet (150’) except where the use of berms, vegetation, and structures are demonstrated to constitute an effective buffer for a dwelling on a lot less than one hundred fifty feet (150’) in depth.
   d. Whenever practical, existing roadside trees shall be saved and used in the arterial buffer.
(e) Parking areas may be used to buffer arterial streets from high density residential uses except that a parking area shall not extend into a required landscape buffer.

(f) Development agreements shall include provisions for installation and continued maintenance of arterial buffers.

(g) No residential lot shall have individual access to an arterial street.

(h) All public streets and alley rights of way shall be measured from property line to property line. The minimum width of street and alley rights of way shall conform to the typical cross sections and street standards set forth in the City Standard Drawings and Engineering Specifications, for the street classification designated by the Director and as set forth in the Comprehensive Plan. In determining the street classification, the Director shall take into consideration all of the following factors:

(i) Zoning and land usage of the area in which the street is located.

(ii) Anticipated traffic volume and character of traffic use.

(iii) Character or function of the street.

(iv) Vehicular and pedestrian safety.

(v) Anticipated future growth in the area served by the street.

(vi) Population density in the area served by the street.

(i) Local streets or minor collector streets serving residentially-zoned areas may be developed to rural street standards (fifty foot (50’) right-of-way) only upon the following conditions and only if approved by the City:

(i) All residential lots bordering such streets have frontage lengths of at least two hundred ten feet (210’); or

(ii) The gross average density of the development served by the street is equal to, or less than, one (1) single-family unit per acre.

(j) A permanent dead-end street shall not be longer than four hundred feet (400’), provided, however, if all lots fronting upon such street are zoned RP, RP-A, R-1, or R-2, then the street may be constructed to a length not to exceed six hundred feet (600’). Notwithstanding the foregoing, no conditional use or building permit shall be issued for the construction of a school, church, day care center, or multi-family dwelling unit with more than two (2) units, where the primary vehicular access for such use is upon a permanent dead-end street having a length in excess of four hundred feet (400’). Every permanent dead-end street shall have a closed
end with a turn-around with a street right-of-way line diameter of at least ninety feet (90’) minimum or as required by the Fire Marshal.

(k) Streets that temporarily dead-end may be permitted with a distance of greater than four hundred feet (400’) in length, provided the developer files a preliminary plat depicting a through street connecting to such temporary dead-end street, as part of another phase within that preliminary plat, and provided further the Council may order the developer to file a final plat for such phase of the preliminary plat, at any time at the expiration of three (3) years after the date the plat showing the temporary dead-end street was approved.

(l) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than eighty degrees (80º) or greater than one hundred degrees (100º).

(m) Minor streets shall be so laid out in a manner as will discourage their use by through traffic.

(n) Streets in subdivisions shall continue the alignment of existing streets in adjoining subdivisions (or their proper projections when adjoining property is not subdivided). Streets, alleys, and utility lines shall be arranged in a manner which will facilitate convenient street extension and connection to future streets, alleys, and utility lines developed by the owners of adjoining.

(o) Minimum street grades of four-tenths percent (0.4%) and corner radius of six-tenths percent (0.6%) shall be required with the maximum grade being seven percent (7%) for secondary and major streets and ten percent (10%) for local or minor streets.

(p) All streets and alleys shall be completed to the grades required by the City Standard Drawings and Engineering Specifications.

(q) Where street lines within a block deflect from each other at any one point more than ten degrees (10º), there shall be a connecting curve. The radius of the curve for the inner right-of-way line shall be not less than seven hundred fifty feet (750’) for a major street, three hundred feet (300’) for a collector or secondary street, and one hundred seventy feet (170’) for local or minor streets.

(r) Back of curbs at street intersections shall be rounded with curves with a minimum radius of twenty-five feet (25’).

(s) No plat shall be laid out in any manner for the purpose of creating a Spite Strip within or adjacent to the subdivision.
Street name signs shall be erected by the developer in accordance with City Standard Drawings and Engineering Specifications and this Code.

All streets and alleys within the subdivision shall be dedicated for public use. The dedication of one-half (1/2) streets in a subdivision is prohibited except where essential to the reasonable development of the subdivision in conformity with other requirements of this Chapter and where it will be practicable to require the dedication of the other one-half (1/2) when the adjoining property is platted, all as determined by the Director. Wherever a one-half (1/2) street is situated adjacent to a parcel of land to be subdivided, the other one-half (1/2) shall be platted within such parcel.

All street sections, curbs, gutters, and sidewalks shall be constructed in accordance with the City Standard Drawings and Engineering Specifications. Curbs, gutters, and sidewalks shall be constructed on each side of all public streets, unless otherwise approved in writing by the Director.

Alleys and Easements:

1. The minimum width of any dedicated alley shall be twenty feet (20’), unless otherwise approved by the Public Works Department and Community Development Services Department. Alleys may be required along the rear line of business property, and in the rear of all lots fronting major thoroughfares, as determined by the Director.

2. Where alleys are not provided, public utility easements of not less than eight feet (8’) in width may be dedicated on each side of all rear lot lines and six feet (6’) on side lot lines, where necessary, for poles, wires, conduits, storm or sanitary sewers, and gas and water lines. Easements of greater width may be required by the City Engineer along lines across lots or along boundaries where necessary for surface drainage or for the extension of main sewers or other utilities.

3. Alley intersections and sharp changes in alignment shall be avoided, but where necessary and when allowed by the City Engineer, corners shall be of sufficient radius to permit safe vehicular movement.

4. Dead-end alleys shall be avoided. If unavoidable, such alleys shall be provided with adequate turn-around facilities at the dead-end.

Access Coordination: The access location of a lot to the public right-of-way shall be coordinated so it does not interfere with another lot’s access or the safety and efficiency of the transportation system. Lot access should comply with the City’s adopted Access Management Plan. A subdivision may be required to provide shared access with adjacent subdivisions. Subdivisions required to have shared access shall execute the necessary cross-access agreements or easements to facilitate the shared access and provide copies of the executed documents to the City prior to the recording of the final plat.
(M) Sidewalks: Sidewalks shall be provided in all residential and commercial subdivisions unless developed according to rural street standards identified in this Chapter.

(N) Water and Sewage Facilities: The developer shall ensure that utility improvements and extensions are made to provide sufficient sanitary sewage disposal, storm drainage and water quality and water flow, and pressure for domestic use and fire protection. All water, sewage, and storm drainage utility systems shall be designed and constructed in accordance with the City Standard Drawings and Engineering Specifications, and the rules and regulations of the Department of Environmental Quality for the State. No construction on such utility systems may be commenced until the City Engineer and the Department of Environmental Quality have approved the design of such system in writing. No plat shall be recorded by the developer or accepted by the City unless the plat bears the necessary water and sanitary certificates required by Idaho Code.

(O) Flood Plain Areas: The City may prohibit the subdivision of any portion of land which lies within the flood plain of any body of water as designated by the Federal Emergency Management Agency (FEMA) for the public health, safety and welfare, if it is determined that construction of the subdivision creates a potential hazard to the health or safety of the occupants of the subdivision.

10-1-6 APPLICATION FOR SUBDIVISION APPROVAL:

(A) Application for Approval: No plat shall be recorded until an application for subdivision has been filed by the developer or developers and approved in accordance with the provisions of this Chapter.

(B) Plat Procedures: The preparation, submittal, review, and approval or denial of all subdivision plats shall proceed through a Regular Subdivision plat procedure (for subdivisions with five (5) or more lots) or a Short Subdivision plat procedure (for subdivision with four (4) or fewer lots).

(C) Plat Approval Process: Applications seeking approval for regular subdivision shall comply with the preliminary plat and final plat approval process set forth hereafter. Applications for a short subdivision may follow the sketch plat and final plat approval process, if prior approval to so proceed is given by the Director.

(D) Application and Fees: Whenever a developer requests approval of a sketch plat, preliminary plat, or final plat, such plat shall be accompanied by an application form provided by the City. All applications shall be accompanied with the associated filing fees in an amount set by Resolution of the Council.

(E) Application Deemed Complete: An application for plat approval shall be deemed to be filed with the Director’s office upon payment of all fees required by this Chapter and receipt of the application and plat, complete with all required contents.

10-1-7 SKETCH PLAT APPROVAL PROCESS: Where a sketch plat is filed, the applicant shall discuss with the Director the requirements of this Chapter, and if the sketch plat
appears to be in conformity therewith, the Director shall approve the same or advise the applicant of specific changes, additions, or recommendations which will be likely required to obtain final plat approval. Such approval or recommendations from the Director shall constitute authorization to prepare and submit a final plat. Approval or recommendations for approval shall be given by the Director within twenty (20) days following the date the plat is filed with the Director’s office.

10-1-8  PRELIMINARY PLAT APPROVAL PROCESS:

(A) Preliminary plat approval to subdivide land shall be required when a proposed subdivision includes multiple phases of development, when the subdivision will be divided into several lots and blocks, when the application involves adjustments or realignments to the layout of existing public streets, when the plat proposes the dedication of new public rights-of-way or public facilities, and when directed by the Director. Approval of a preliminary does not constitute approval of the final plat. Actual subdivision does not occur until the final plat is approved and recorded with the Bonneville County Recorder.

(B) Submittal and Review Process:

(1) Prior to submitting an application for a Preliminary Plat, the developer shall request a pre-application meeting. The Community Development Services Department shall schedule and conduct a pre-application meeting within three (3) business days following receipt of a request from a developer. The developer shall provide either a sketch plat or a copy of the proposed preliminary plat prior to the pre-application meeting.

(2) A complete application shall be submitted to the Community Development Services Department on a form provided by the City and accompanied by a filing fee as set by Resolution of the Council. The application shall be submitted at least five (5) weeks prior to the regularly scheduled Planning and Zoning Commission meeting, or as otherwise approved by the Director.

(3) Following receipt of a complete application and all applicable fees, the Community Development Services Department shall distribute copies of the Preliminary Plat and other application materials to appropriate reviewing agencies for review and comment.

(4) The City will return redlined documents to the applicant or his agent detailing any changes requested by the reviewing agencies.

(5) When reviewed comments and recommendations have been addressed and resubmitted to the Community Development Services Department, by the developer, a public hearing at a regularly scheduled meeting with the Planning and Zoning Commission shall be scheduled to consider the preliminary plat. Within sixty (60) days following the date of the Commission meeting at which the plat and application were first submitted, the Commission shall complete its review and shall approve, conditionally approve, or disapprove of the plat and
application, unless an extension of time is agreed to by the Commission and the developer.

(6) When acting on an application, the Planning and Zoning Commission shall review the preliminary plat to determine compliance with this Chapter, the Comprehensive Plan, and all applicable Federal, State, or local laws. In conducting such reviews, the Commission may recess such meeting for good cause and may solicit comments from other departments and divisions of the City. In the event the Commission conditionally approves the preliminary plat, it shall advise the developer in writing of the conditions under which the approval is granted, and upon developer’s compliance with such conditions and the Director’s written certification thereof, the plat shall be deemed approved. If approval of the plat is denied, the Commission shall advise the developer, in writing, of the reasons for denial of the application. Any aggrieved person whose preliminary plat has been denied by the Planning and Zoning Commission may petition the Council for a hearing. Such petition shall be submitted to the Community Development Services Department within fourteen (14) days from the Planning and Zoning Commission’s written decision.

(C) Application and Contents of Plats: The application and plat shall accurately and fairly describe and depict all improvements, structures, boundary lines, lot configurations, area to be developed, existing and proposed land use and zoning, grades, land contour, recreational and public use area, utilities, water works, topography, streets, alleys, easements, and shall contain such other information as may be necessary to determine if the proposed subdivision complies with the requirements of this Chapter. The plat shall be drawn in accordance with generally accepted engineering standards and practices and shall be drawn in such a manner as will assure legibility, clarity, reproducibility, accuracy, uniformity, and neatness of the plat.

(D) Plat Expiration: The approval of a preliminary plat shall expire eighteen (18) months following the date of approval unless a final plat has been approved by the Commission. If the plat is being phased, the preliminary plat shall expire eighteen (18) months following the date of approval of the final plat for the previous phase. The Planning and Zoning Commission may grant one (1) written eighteen (18) month extension upon finding good cause.

(E) Model Homes: The Council shall allow no more than two (2) model homes to be built in a subdivision after preliminary plat approval, but before final plat approval, provided the lots to be developed have frontage upon an existing public street.

10-1-9 FINAL PLAT APPROVAL PROCESS:

(A) Submittal and Review Process:

(1) Following the approval of the sketch plat or preliminary plat, as the case may be, the developer may file an application for final approval of the subdivision plat. Subdivisions that include public improvements shall submit improvement
drawings as required by this Chapter. Submittal of improvement drawings shall run concurrently with the submittal of the final plat. All applications shall be made on a form provided by the City and shall be accompanied by a filing fee as set by Resolution of the Council.

(2) A complete application shall be submitted to the Community and Development Services Department. Application shall be submitted at least five (5) weeks prior to the scheduled Planning and Zoning Commission meeting where the application will be considered.

(3) In addition to the application forms required by the Community Development Services Department, the application shall show that the Final Plat is consistent with the approved Preliminary Plat.

(4) If the number of residential buildable lots has increased more than five percent (5%) within any proposed division or if roadway patterns have been modified within the preliminary plat, the Final Plat shall be determined not to be consistent with the Preliminary Plat. If the Director determines that the Final Plat is not consistent with the Preliminary Plat or that conditions of the Preliminary Plat approval have not been met, a new Preliminary Plat shall be submitted and processed according to the requirements of this Chapter.

(5) All development shall comply with the Plat Phasing Sequence shown and approved on the Preliminary Plat. Any variation of sequence shall be re-approved following a full staff review and subsequent re-approval by the Director.

(6) When review comments and recommendations have been satisfactorily addressed by the applicant and resubmitted to the Community Development Services Department, the Planning and Zoning Commission shall consider the Final Plat at a regular scheduled meeting of the Commission. Within sixty (60) days after the meeting of the Commission at which the request for approval of the Final Plat is considered, the Commission shall recommend to the Council approval or denial of the Final Plat. However, the developer may request that the matter be recessed, and in such event, the sixty (60) day period for initial decision making shall not commence until the matter is again considered by the Commission. The Commission shall provide the applicant with written certification of its decision as required by Idaho Code. Whenever the Commission recommends denial of the final plat, it shall specify the ordinances and standards used in evaluating the application, and its reasons for denial thereof and the actions, if any, that the applicant may take to obtain their approval. If the Planning and Zoning Commission denies the Final Plat, or if substantial changes are required, the plat shall be resubmitted.

(7) Consideration of the request for final plat approval may be conducted simultaneously with hearings for annexation, initial zoning, rezoning, or amendment of the Comprehensive Plan relating to the same property.
Upon the developer’s written request, the Commission shall forward its recommendation to the Council, provided, however, if such request is not physically filed with the Director within one (1) year following the date the Commission issues its recommendation, then the application shall become void. Within forty-five (45) days after the developer’s written request, the Council shall hear the request for approval of the final plat to determine if the same complies with the provisions of this Chapter.

If the final plat conforms to the provisions of this Chapter and all other applicable State or Federal laws, or local ordinances, the Council shall approve the final plat and authorize the Mayor and Clerk to sign the original plat. In granting or denying the application for approval of the final plat, the Council shall specify the ordinance and standards used in evaluating the application, and reasons for approval or denial, and the actions, if any, that the applicant may take to obtain approval. The Council shall provide the applicant with written certification of its decision as required by Idaho Code.

Proof of payment of all engineering, hook-up, water and sewer, road and bridge, and surface drainage fees and all other fees prescribed by city ordinance.

(B) Final Plat Requirements:

1. Boundary Resolution: The boundary lines and corners of any property being surveyed as part of a Subdivision Plat shall be established and/or retraced in accordance with appropriate boundary law principles governed by the set of facts and evidence found in the course of performing the research and survey.

2. Measurement Standards: The following measurement standards for Relative Positional Precision for the monuments or witnesses marking the corners of the surveyed property shall be followed in creation of the final plat:

   (a) “Relative Positional Precision” means the length of the semi-major axis, expressed in feet, of the error ellipse representing the uncertainty due to random errors in measurements in the location of the monument, or witness, marking any corner of the surveyed property relative to the monument, or witness, marking any other corner of the surveyed property at the ninety-five percent (95%) confidence level (two (2) standard deviations). Relative Positional Precision is estimated by the results of a correctly weighted least-squares adjustment of the survey.

   (b) Any boundary lines and corners established or retraced may have uncertainties in location resulting from (1) the availability, condition, history, and integrity of reference or controlling monuments, (2) ambiguities in the record descriptions or plats of the surveyed property or its adjoiners, (3) occupation or possession lines as they may differ from the written title lines, and (4) Relative Positional Precision. Of these four (4) sources of uncertainty, only Relative Positional Precision is controllable, although due to the inherent errors in any measurement, it
cannot be eliminated. The magnitude of the first three (3) uncertainties can be projected based on evidence. The surveyor in responsible charge shall evaluate and make determinations using sound survey practices for the first three uncertainties. Relative Positional Precision is estimated using statistical means (see Section 2a above and Section 2e below).

(c) The first three (3) of these sources of uncertainty shall be weighed as part of the evidence in the determination of where, in the surveyor’s opinion, the boundary lines and corners of the surveyed property should be located (see Section 2b above). Relative Positional Precision is a measure of how precisely the surveyor is able to monument and report those positions; it is not a substitute for the application of proper boundary law principles. The surveyor shall use sound principles in evaluating position and also meet the requirements of the Relative Positional Precision.

(d) For any measurement technology or procedure used on a Subdivision Plat, the surveyor shall (1) use appropriately trained personnel, (2) compensate for systematic errors, including those associated with instrument calibration, and (3) use appropriate error propagation and measurement design theory (selecting the proper instruments, geometric layouts, and field and computational procedures) to control random errors such that the maximum allowable Relative Positional Precision outlined in Section 2e below is not exceeded.

(e) The maximum allowable Relative Positional Precision for monumentation of a Subdivision Plat is one-tenth of one foot (0.10’) plus fifty parts per million (50ppm) (based on the direct distance between the two (2) corners being tested). In certain circumstances, the size or configuration of the surveyed property, or the relief, vegetation, or improvements on the surveyed property may result in survey measurements for which the maximum allowable Relative Positional Precision may be exceeded. If the maximum allowable Relative Positional Precision is exceeded, the surveyor shall note the reason as required in Section 3a below.

(3) Final Plat or Map Document Accuracy Requirements:

(a) A note on the face of the plat or map shall explain the site conditions that resulted in a Relative Positional Precision that exceeds the maximum allowed under Section 2e of these standards.

(b) Each of the subdivision boundaries and individual lot boundaries shown on the plat shall have a maximum mathematical closure of 0.01 feet plus ten parts per million (10 ppm).

(c) A note on the face of the plat or map shall describe the location and description of any monuments, lines, or other evidence that control the boundaries of the surveyed property or that were otherwise relied upon.
in establishing or retracing the boundaries of the surveyed property, and
the relationship of that evidence to the surveyed boundary.

(d) An explanation of the boundary description of the subdivision, if it
differs from the original deed for the property, shall be made on the face
of the plat or map in a surveyor’s note. Where a measured or calculated
dimension differs from the record by an amount deemed significant by
the surveyor, such dimension shall be shown in addition to, and
differentiated from, the corresponding record dimension.

(e) When the results of the survey differ significantly from the record, or if a
fundamental decision related to the boundary Resolution is not clearly
reflected on the plat or map, the surveyor shall explain this information
with notes on the face of the plat or map.

(4) Subdivision Title Guarantee and Report: Proof of ownership and authority of the
property owner to legally plat the property shall be demonstrated, prior to
recording the final plat, in the form of a title insurance product, approved by the
City and set forth in the Final Plat application. The title insurance product shall
include, but may not be limited to, proof of ownership and authority to bind the
property and sign the “Owner’s Dedication” and the “Drinking Water System
Certificate”.

(5) Recording the Final Plat:

(a) The applicant shall provide three (3) reproducibles of the executed Final
Plat to the Public Works Department in accordance with Section 50-
1304, Idaho Code. Signatures shall be in reproducible black ink.

(b) Upon approval and execution of the final plat, the City Surveyor shall
file the plat with the Bonneville County Recorder’s office. All approved
final plats shall be offered for record within one hundred and eighty
(180) days following approval by the Council, unless an extension of
time for filing is granted by the Council.

(c) If the final plat is not offered for record within one hundred and eighty
(180) days, or other time period granted by the Council, because of the
applicant’s failure to meet the requirements specified herein, the Council
may rescind its approval of the plat.

(d) No plat shall be recorded or offered for record nor shall any land be
recorded or offered for sale with reference to such a plat until said plat
has been duly approved by Council and signed.

(e) If a fully executed Final Plat has been offered for record by the property
owner and has been delayed for any reason, the order to record may
come from the Director regardless of the wishes of the owner of the land
platted. (Ord. 3003, 4-23-15; Ord. 3129, 8-10-2017)
ENGINEERING IMPROVEMENT DRAWINGS:

(A) Any person who requests acceptance by the City of any street, utility line, or other public improvement shall first submit improvement plans profiles and specifications for such improvements to the Community Development Services Department. Street and Utility Improvement Drawings submitted shall be prepared, signed, and stamped by a licensed professional engineer. Construction of said public improvements shall not be commenced until the City Engineer has certified that such plans are in accordance with the City Standard Drawing and Engineering Specifications and that the developer has paid the associated fee. Final approval of and signature on the improvement drawings by the City must be obtained prior to the associated Final Plat being submitted to the Council for approval.

(B) Acceptance: If improvement plans sealed by a professional engineer licensed in Idaho comply with all state and local laws and ordinances and any development agreement executed or to be executed between the City and the applicant, the City Engineer shall endorse the improvement plans and shall cause a notice to be imprinted upon the Improvement Drawings stating that the City will not accept ownership or maintenance of such public improvements until a professional engineer licensed in the State of Idaho has inspected the construction of such public improvements and has delivered written certification to the City Engineer that such inspection was made and that construction of such improvements meets or exceeds the minimum standards set forth in the City Engineering Standard Drawings and Engineering Specifications.

(C) As-built Drawings: As-built drawings and construction materials testing documentation of such public improvements shall be prepared, sealed by a professional Engineer licensed in Idaho, and submitted to the City Public Works Department. Following submittal, the City Engineer shall then review the sealed “as-built” drawings, together with the certification of the professional engineer, for acceptance. Public improvements which have been accepted by the City shall result in a “Notice of Public Acceptance of Street and Utilities” to be recorded in the Bonneville County Recorder’s office.

ANNEXATION AND INITIAL ZONING IN CONJUNCTION WITH A PLAT:

(A) Cities may annex unincorporated territory contiguous to the municipal boundaries provided it complies with Idaho Code. Annexation and Initial Zoning may be done concurrent with a Final Plat.

(B) Submittal and Review Process:

(1) A Complete Application shall be submitted to the Community Development Services Department. Applications shall be submitted at least five (5) weeks prior to a regularly scheduled Planning and Zoning Commission meeting where the matter is to be considered.
(2) Upon receipt of an annexation petition and the required fee, the Community Development Services Department shall schedule a hearing before the Planning and Zoning Commission on the proposed amendment.

(C) Development Agreement:

(1) The development agreement shall be prepared by the developer on a form provided by the City and submitted to the City for review. Review and recommendations will then be made by the City and returned to the developer. Final approval by the City and signatures by the developer shall be obtained before the final plat being submitted to the Council.

10-1-12 GUARANTEE OF COMPLETION:

(A) The developer of a subdivision within the City shall be required to construct and install all public improvements as required by this Code and Idaho Code and the approved improvement drawings for each subdivision or phase thereof prior to the issuance of any building permit for said subdivision. Guarantee of completion shall be provided in lieu of completing all infrastructure improvements prior to issuance of building permits within a subdivision.

(B) Financial Guarantee Arrangements: Prior to commencing construction on any public improvements, the final plat and development agreement shall be approved and recorded. The City shall require the developer to provide a financial guarantee of performance in one (1) or a combination of the following arrangements which shall be in addition to the requirements of any other agency responsible for the administration, operation and maintenance of the applicable public improvement. Public improvements shall include but not be limited to: roads, electric, public water, public sewer, fire protection, lighting, required landscaping, curb, gutter, sidewalks, and drainage systems.

(C) Surety Bond:

(1) Accrual: The bond shall accrue to the City covering all costs of construction of the specific public improvements.

(2) Amount: The bond shall be in the amount equal to the one hundred fifty percent (150%) of the total estimated costs based on the development cost in this Section, for completing construction of the specific public improvement, as recommended and approved by the City Engineer.

(3) Term Length: The bond shall be in force for a period of at least twelve (12) months, with automatic renewals until such time as the public improvements are completed and accepted by the City and shall further continue until all warranty periods are completed.

(4) Bonding for Surety Company: The bond shall be with a surety company authorized to do business in the State of Idaho and acceptable to the Council.
(5) Development Cost Estimate: The development cost estimate shall be provided by the developers engineer for review and approval by the City Engineer. Said estimate shall reflect the nearest similar City project bid cost estimates plus ten percent (10%) of the improvement needed to complete the subdivision.

(D) Cash Deposit, Certified Check, Negotiable Bond or Irrevocable Bank Letter of Credit:

(1) Treasurer, Escrow Agent, or Trust Company: A cash deposit, certified check, negotiable bond, or an irrevocable bank letter of credit, such surety acceptable to the City, shall be deposited with an escrow agent City Treasurer, or trust company;

(2) Dollar Value: The dollar value of the cash deposit, certified check, negotiable bond or an irrevocable bank letter of credit shall be equal to one hundred fifty percent (150%) of the estimated cost based on the development cost agreement in this Section, for completing construction of the specific public improvement, as recommended and approved by the City Engineer.

(3) Escrow Time: The escrow time for the cash deposit, certified check, negotiable bond, or irrevocable bank letter of credit, shall be for a period of at least twelve (12) months, with automatic renewals until such time as the public improvements are completed and accepted by the City and shall further continue until all warranty periods are completed.

(4) Development Cost Estimate: The Development cost estimate shall be provided by the developers engineer for review and approval by the City Engineer. Said estimate shall reflect nearest similar City project bid cost estimates plus ten percent (10%) of the improvements needed to complete subdivision.

(5) Other Security: Other security for public improvements may be accepted upon a specific finding by the Council that such security is in an amount and of a type that guarantees installation of public improvements required by this Code.

(6) Approval of As-Built Site Improvements: With respect to financial guarantees, the approval of all as-built site improvements within a subdivision shall be conditioned on the accomplishment of the following:

(a) The public improvements as required in the construction improvement drawings required by this Code have been completed by the developer and approved by the City.

(b) All completed public improvements shall be approved by the developer’s engineer with an acknowledged/notarized letter.

(7) Inspection of Public Improvements Under Construction:

(a) Before recording of a final plat an agreement shall be made in writing between the developer and the City to provide for the inspection and the
construction and conformity of public improvements to the approved construction plans. The inspection fee shall be in an amount set from time to time by Council based on a percentage of the estimated total public improvement construction costs. Materials testing, per the frequency specified in the City’s standards, shall be provided by the developer at no cost to the City.

(b) Prior to construction of public improvements, a pre-construction meeting shall be held with the appropriate City staff, the project engineer, and the contractor or the contractor’s designated representative.

(8) Penalty in Case of Failure to Complete Construction of Public Improvements: In the event the developer fails to complete construction of public improvements within the period of time required by the conditions of the guarantee for the completion of public improvements the Council may proceed to have such work completed. The Council may determine and take necessary action in order to accomplish completion of the required public improvement. The Council may reimburse itself for the cost and expense thereof by appropriating the cash deposit, certified check, negotiable bond, irrevocable letter of credit, or other acceptable security which the developer deposited in lieu of the surety bond. The City may take any steps necessary to require performance by the bonding or surety company, and as included in a development agreement between the Council and the developer.

(9) Reduction and Release of Guarantee:

(a) Following completion of a portion of the public improvement (such as a structure or a section of road), the developer may submit a written request to the City Engineer for final inspection of that portion. To receive partial acceptance the public improvement must be functional and able to be utilized by the public with or without restrictions as determined by the City Engineer. If the City Engineer determines that the developer completed the portion of work in accordance with the development agreement requirements, the City Engineer may consider the inspection a final inspection for that completed portion and relieve the contractor of construction site responsibilities for that portion. If the inspection discloses work not completed in accordance with the requirements of the development agreement, the City Engineer shall not declare that portion of the project complete until the developer addresses the noncompliant work to the satisfaction of the City Engineer.

(b) Partial acceptance by the City occurs only after the developer executes and submits all documents, certificates, and proofs of compliance for that portion. When the developer submits (and the City Engineer accepts) all contract required project documentation, the City Engineer will make the partial acceptance for that portion and notify the developer in writing of this acceptance. Bond release shall be proportionate to the cost of construction of the public improvement accepted. If after partial
completion, the developer or a subcontractor damages that partial completion, the developer shall repair or replace the damaged work to the satisfaction of the City Engineer at no additional costs to the City.

(c) Final acceptance by the City occurs only after the inspecting engineer certifies that all of the public improvements are complete and free from defect, after receipt of a notarized statement and itemized bill, and with approval of the City Engineer. The City shall then release the developer from the development agreement upon completion of all warranty periods.

(10) Exception: For subdivisions where the City determines it to be in the best interest of the property owners to install sidewalks at the time of building rather than at the time of subdivision development, the following procedure will be followed regarding the installation of sidewalks:

(a) Building Permit/Certificate of Occupancy: A building permit may be issued on a building occupying a lot when the required sidewalk has not been installed under the following conditions:

(i) On the building permit it is clearly noted that the sidewalks shall be installed prior to the receipt of a final Certificate of Occupancy.

(ii) Prior to the issuance of a temporary Certificate of Occupancy at least one (1) of the following shall be in force:

(aa) A cash deposit or certified check in the amount approved by the City Engineer pursuant to this Section shall be deposited and held in escrow by the City until such time as the sidewalks are installed. It shall be the responsibility of the property owner to request an inspection of the installation and request a refund of the escrowed funds from the City. All refunds of such escrowed funds shall be subject to the accounts-payable cycle of the City. An inspection by the City Engineer showing acceptance and compliance of sidewalks shall be completed prior to any request for a refund of the escrowed funds.

(bb) A letter from a title company certifying that funds in the amount approved by the City Engineer pursuant to this section shall be held in escrow until such time as the sidewalks have been installed and an inspection by the City Engineer showing acceptance and compliance of sidewalks has been completed.

10-1-13 ADMINISTRATION:
(A) Director: The Director shall administer the terms and provision of this Chapter and received and process all subdivision applications.

(B) Variances: The Council may, upon recommendation from the Commission, grant a variance to the terms and provision of this Chapter. A variance may be granted only upon an express finding that all of the following conditions exist:

1. There are special circumstances or conditions affecting the property being platted such that a strict application of this Chapter would clearly be impracticable or unreasonable.

2. Strict compliance with this Chapter would result in extraordinary hardship, as distinguished from mere inconvenience, to the developer because of the particular physical surroundings, shape, or unusual topography of the developer’s property, and will substantially preclude development of the property.

3. The circumstances for which the variance is sought are unique to the property and are not applicable to other properties similarly situated.

4. The variance is the least deviation from this Chapter necessary to mitigate the hardship.

5. The granting of the variance is not likely to be substantially detrimental to the public safety, health, and welfare or will not substantially injure other property adjoining the property for which the variance is sought.

6. The variance is not otherwise contrary to law.

7. The conditions necessitating the variance were not caused or exacerbated by or in any way arise from the actions of the developer.

(C) Appeals: Any applicant denied a permit or aggrieved by a decision, may, within sixty (60) days after all remedies have been exhausted under this Chapter, seek judicial review pursuant to the procedures set forth in Idaho Code.
CHAPTER 2
BRIDGE AND STREET REGULATIONS

SECTION:

10-2-1: Intent
10-2-2: Definitions
10-2-3: Scope of Ordinance
10-2-4: Responsibilities of Developers
10-2-5: Amount of Fees
10-2-6: Payment of Fees
10-2-7: Exception to Fee Schedule
10-2-8: Bridge and Arterial Streets Fund
10-2-9: Disbursement of Funds

10-2-1: INTENT: The City Council finds and declares as follows:

(A) The development of new subdivisions and developments around the periphery of the City is impacting the City's bridges and arterial and collector streets, and

(B) The development of new subdivisions outside the City, but which require private access to streets and ways within the City also impacts City bridges and arterial streets and otherwise reduces the ability of such streets and bridges to adequately handle traffic flow.

(C) The increased traffic volume generated by such new subdivisions and developments requires the construction of new collector and arterial streets and bridges, and

(D) It is not equitable to fund the entire cost of constructing such arterial street improvements and bridge construction entirely from ad valorem tax revenues, and

(E) The annexation of subdivisions to the City is creating the need for improvements to streets and bridges and the developers thereof should therefore pay a portion of the cost thereof, and

10-2-2: DEFINITIONS: Words and phrases used in this Chapter shall have the meanings ascribed in the Subdivision Ordinance, and as ascribed below:

ARTERIAL STREET: Any U.S. or state numbered route, controlled access street, or other major radial or circumferential street or highway designated by the City as part of a major arterial system of streets or highways.

CITY: The City of Idaho Falls.

COLLECTOR STREET: A street primarily intended to provide for traffic movement between arterial streets and local streets.

COMMERCIAL ZONE: The I&M, LM, R&D, CC, HC, LC, PB, R3, and R3A zones as established by the Zoning Ordinance of the City or with respect to property located outside the City, any other zoning classification substantially similar to any of the foregoing zoning classifications.
CONTROLLED ACCESS HIGHWAY: Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points and in such manner as may be determined by the City.

DEVELOPER: Any person owning fee simple title to any parcel of real property, subject to this ordinance.

LOCAL STREET: A street into which private access is freely allowed, and which is less than sixty (60) feet in width measured from the back of the curbs.

PERSON: Any individual, partnership, corporation, trust or lawful organization.

PRIVATE ACCESS: Any roadway, drive, or other privately-owned way used to obtain direct vehicular access to a public street or alley.

PUBLIC ACCESS: Any street, road, highway, alley or other publicly dedicated and accepted way designed for movement of vehicular traffic.

RE-SUBDIVISION: A change in any plat of an improved or recorded subdivision that affects the layout of any street or area reserved for public use, or which creates any additional lots.

SUBDIVISION: The division of land into two (2) or more lots for the purpose of sale, lease or development by a Developer, including any re-subdivision of land.

SUBDIVISION ORDINANCE: The Subdivision Ordinance of the City of Idaho Falls, as the same now exists or as modified hereafter. (Ord. 3181, 04-12-18)

10-2-3: SCOPE OF ORDINANCE: This Ordinance shall apply to all land annexed to the City and, except as expressly provided herein, to all land contiguous to any street located within the City and from which land public or private access or surface drainage is made to such street or for which City plat approval is required under Section 50-1306, Idaho Code.

10-2-4: RESPONSIBILITIES OF DEVELOPERS: The responsibilities of the Developer and of the City for the construction of bridges and streets shall be as follows:

   (A) All bridges across canals, ditches, and streams lying entirely within a single subdivision within the City or within property to be developed within the City, and used primarily for the benefit of circulating local traffic shall be constructed by or paid for entirely by the Developer.

   (B) The City shall design and construct all bridges on local, collector, and arterial streets when such bridges are deemed necessary by the City, except as required in subsection (A) above.

   (C) Construction of "controlled access" streets within the City shall be the responsibility of the City. However, the Developer shall dedicate to the public a right of way of a maximum of fifty seven feet (57') in width along any controlled access street adjacent to or within the Developer's subdivision or property.

CITY CODE OF THE CITY OF IDAHO FALLS 562
(D) Except as provided below, the design and construction of all arterial, collector and local streets, within or bordering the Developer's subdivision or property, shall be primarily the Developer's responsibility. The Developer shall dedicate the right of way therefor up to a maximum width of fifty seven feet (57') per each side of the street along which his subdivision or property borders. The Developer shall be responsible for the design and construction of the sidewalk, curb and gutter, and twenty one and one-half foot (21 1/2') width of the street surface per each side of all streets along which his subdivision or property borders. The ballast depth of any paved street surface for which the Developer has responsibility shall consist of a four inch (4") depth of asphalt plant mix and a ten inch (10") depth of three-fourths inch (3/4") crushed gravel aggregate for any subdivision or property located within a Commercial zone, or for which such zoning is requested. The Developer shall be responsible for a paved street section having a ballast depth of two inches (2") of asphalt plant mix and six inches (6") of three-fourths inch (3/4") crushed gravel aggregate for any subdivision or property not located within the Commercial Zone or for which a zoning classification other than such zone is requested. The City shall be responsible for the costs of the extra width of street paving over and above the twenty one and one-half feet (21 1/2') width per side of the street, and the extra depth of street paving over and above those ballast depths specified above as being the Developer's responsibility, provided, however:

(1) If the Developer chooses to develop his subdivision or property in such a manner that there is no private access to an adjacent arterial street, irrespective of whether or not the arterial street has been designated as a controlled access street, the Developer shall only be responsible for designing and constructing the curb and gutter, sidewalk and storm drainage facilities, along said arterial street frontage; and the City will be responsible for the cost of designing and constructing, the entire street section along said street frontage.

(2) If the Developer chooses to develop his subdivision or property in such a manner that there is no private access to an adjacent collector or local street, the Developer shall still be responsible for the costs of constructing the sidewalk, curb and gutter, paved street surfacing and storm drainage facilities, along said collector or local street frontage in accordance with the allocation of responsibility set forth above.

(3) If the Developer develops his subdivision or property in such a manner that any street therein is roughly parallel with and immediately adjacent to a canal, river, freeway, controlled access arterial street or other such similar facility or topographical feature whereby the access to and use of such street is from one side only, the Developer shall be responsible for the entire width of street section and all sidewalk, curb and gutter and storm drainage facilities along both sides of the street. Notwithstanding the foregoing, the City will be responsible for the extra asphalt plant mix and ballast depth as set forth above.

(E) All streets, sidewalks, curbs, gutters or other public improvements which the developer is required to construct shall be constructed in accordance with the City Standard Drawings and Engineering Specifications adopted by ordinance.
10-2-5: AMOUNT OF FEES: A "Bridge and Arterial Streets Fee" shall be assessed to each developer seeking annexation of lands to the City or seeking private access from any property situated outside the City to any public street or alley within the City. Such fee shall be based upon the number of parking spaces required by the City Zoning Ordinance for the zoning classification of the property annexed or served by such private access, in accordance with the table below. The amount of the fee shall be in an amount set from time to time by Resolution of the Council for each required parking space, in accordance with the following:

<table>
<thead>
<tr>
<th>Zones</th>
<th>Required Parking Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>RE, RP, R1, RMH</td>
<td>2 spaces per platted lot; 5 spaces per acre if unplatted</td>
</tr>
<tr>
<td>TN, R2</td>
<td>10 spaces per acre</td>
</tr>
<tr>
<td>Commercial</td>
<td>25 spaces per acre</td>
</tr>
</tbody>
</table>

Notwithstanding the foregoing, if a dwelling, single unit is or will be constructed upon a lot located in an R2, R3 or R3A zone, the fee shall be assessed as though the lot were zoned R1.

For the purposes of determining the zoning classification for property located outside the City, the zoning classification used to compute such fees shall be the City zoning classification which is most similar to the actual zoning classification established by the government entity having jurisdiction over the Developer's subdivision or property, provided however no fee shall be charged if the property has been zoned primarily for agricultural use. (Ord. 2964, 8-14-14; Ord. 3181, 04-12-18)

10-2-6: PAYMENT OF FEES:

(A) The Bridge and Arterial Streets fee shall be paid in full prior to annexation of the subject property or the construction of any public or private access serving the Developer's subdivision or property, or on an installment schedule incorporated into an annexation or development agreement, subject to the limitations set forth below.

(B) For all land except land zoned Commercial, a payment of at least ten percent (10%) of the total calculated Bridge and Arterial Streets Fee shall be paid to the City at or before the annexation of the property to the City or connection of any private access to any public street within the City. The annexation or development agreement shall contain a schedule providing for payment in full of the total fee within one year after the date of annexation or approval of the development agreement by the City.

(C) For all lands zoned Commercial, a payment of at least ten percent (10%) of the total calculated fee shall be paid at or before the annexation of the property to the City or approval of a development agreement incorporating an installment payment schedule set forth below. The annexation or development agreement in such cases shall provide that an additional fifteen percent (15%) of the total fee shall be paid on or before six (6) months following the date of the initial payment, that an additional fifteen percent (15%) of the total fee be six (6) months thereafter, and that fifteen percent (15%) of the total fee be paid each three (3) months thereafter until the fee is paid in full.
(D) Notwithstanding the foregoing, whenever the City allows property to be annexed prior to platting, payment of such fees shall become due in full upon the filing of a plat, or may be paid on an installment schedule incorporated into a development agreement, provided the entire fee shall be paid in full within one (1) year after the filing of the plat for residentially-zoned property, and within two (2) years for property zoned Commercial.

10-2-7: EXCEPTION TO FEE SCHEDULE:

(A) Property owned by any bona fide religious organization and used primarily for worship or educational purposes shall be assessed twenty five percent (25%) of the calculated Bridge and Arterial Streets Fee for the zone in which the property is situated.

(B) Publicly-owned property, or property upon which a public entity holds an option to purchase, shall be exempt from said fee.

10-2-8: BRIDGE AND ARTERIAL STREETS FUND: A Bridge and Arterial Streets Fund is hereby established to be maintained by the City Treasurer. All revenues derived from the payment of Bridge and Arterial Streets Fees as set forth in this Chapter shall be deposited in said fund and shall be disbursed only for purposes set forth in Section 10-2-9 of this Chapter.

10-2-9: DISBURSEMENT OF FUNDS: Disbursement may be made from the Bridge and Arterial Streets Fund for the following purposes and object, only:

(A) Construction of bridges which are the responsibility of the City as set forth in Section 10-2-4(B) of this Chapter.

(B) Construction of streets and parts of streets which are the responsibility of the City as set forth in Section 10-2-4(C) and (D) of this Chapter.
CHAPTER 3

[RESERVED]
(Ord. 3179, 4-12-2018)
CHAPTER 4
FLOOD CONTROL

SECTION:

10-4-1: Purpose
10-4-2: Definitions
10-4-3: General Provisions
10-4-4: Administration
10-4-5: Provisions for Flood Hazard Protection
10-4-6: Legal Status Provisions

10-4-1 PURPOSE

Statement of Purpose

The purpose of this Chapter is to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1. Protect human life, health, and property;

2. Minimize damage to public facilities and utilities such as water purification and sewage treatment plants, water and gas mains, electric, telephone and sewer lines, streets, and bridges located in floodplains;

3. Help maintain a stable tax base by providing for the sound use and development of flood prone areas;

4. Minimize expenditure of public money for costly flood control projects;

5. Minimize the need for rescue and emergency services associated with flooding, generally undertaken at the expense of the general public;

6. Minimize prolonged business interruptions;

7. Ensure potential buyers are notified the property is in an area of special flood hazard; and

8. Ensure those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 3184, 05-10-18)
10-4-2 DEFINITIONS

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted according to the meaning they have in common usage and to give this Chapter its most reasonable application.

**Accessory Structure (appurtenant structure):** a structure on the same lot or parcel as a principal structure, the use of which is incidental and subordinate to the principal structure.

**Addition (to an existing building):** an extension or increase in the floor area or height of a building or structure.

**Appeal:** a request for review of the Floodplain Administrator's interpretation of provisions of this Chapter or request for a variance.

**Area of Shallow Flooding:** a designated AO, AH, AR/AO, or AR/AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent (1%) or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of Special Flood Hazard:** see Special Flood Hazard Area (SFHA).

**Base Flood:** the flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**Base Flood Elevation (BFE):** a determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Flood Protection Elevation.

**Basement:** any area of the building having its floor sub grade (below ground level) on all sides.

**Building:** see Structure.

**Critical Facilities:** facilities that are vital to flood response activities or critical to the health and safety of the public before, during, and after a flood, such as a hospital, emergency operations center, electric substation, police station, fire station, nursing home, school, vehicle and equipment storage facility, or shelter; and facilities that, if flooded, would make the flood problem and its impacts much worse, such as a hazardous materials facility, power generation facility, water utility, or wastewater treatment plant.

**Datum:** the vertical datum is a base measurement point (or set of points) from which all elevations are determined. Historically, that common set of points was the National Geodetic Vertical Datum of 1929 (NGVD29). The vertical datum currently adopted by the federal government as a basis for measuring heights is the North American Vertical Datum of 1988 (NAVD88).
**Development:** any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Development Activity:** any activity defined as Development which will necessitate a Floodplain Development Permit; such as: the construction of buildings, structures, or accessory structures; additions or substantial improvements to existing structures; bulkheads, retaining walls, piers, and pools; the placement of mobile homes; or the deposition or extraction of materials; the construction or elevation of dikes, berms and levees.

**Digital Flood Insurance Rate Map (DFIRM):** the digital official map of a community, issued by the Federal Emergency Management Agency, on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

**Elevated Building:** for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Elevation Certificate:** The Elevation Certificate is an important administrative tool of the NFIP. It is used to determine the proper flood insurance premium rate; it is used to document elevation information necessary to ensure compliance with community floodplain management regulations; and it may be used to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

**Enclosure:** an area enclosed by solid walls below the BFE/FPE or an area formed when any space below the BFE/FPE is enclosed on all sides by walls or partitions. Insect screening or open wood lattice used to surround space below the BFE/RFPE is not considered an enclosure.

**Encroachment:** the advance or infringement of uses, fill, excavation, buildings, structures, or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

**Existing Construction:** for the purposes of determining rates, structures for which the “start of construction” commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. “Existing construction” may also be referred to as “existing structures.”

**Existing Manufactured Home Park or Manufactured Home Subdivision:** a manufactured home park or subdivision where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before the effective date of the original floodplain management regulations adopted by the community, on October 15, 1982.

**Existing Structures:** see existing construction.

**Expansion to an Existing Manufactured Home Park or Subdivision:** the preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
Flood or Flooding:

a. A general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters.
2. The unusual and rapid accumulation or runoff of surface waters from any source.
3. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph a.2. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Determination: See Base Flood Elevation (BFE)

Flood Elevation Study: See Flood Insurance Study (FIS)

Flood Hazard Boundary Map (FHBM): an official map of a community, issued by the Federal Insurance Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

Flood Insurance Rate Map (FIRM): an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study (FIS): an examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Zone: a geographical area shown on a Flood Hazard Boundary Map (FHBM) or Flood Insurance Rate Map (FIRM) that reflects the severity or type of flooding in the area.

Floodplain or Flood-Prone Area: any land area susceptible to being inundated by water from any source (see definition of “flooding”).

Floodplain Administrator: the individual appointed to administer and enforce the floodplain management regulations.
**Floodplain Development Permit:** any type of permit that is required in conformance with the provisions of this Chapter, prior to the commencement of any development activity.

**Floodplain Management:** the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and flood plain management regulations.

**Floodplain Management Regulations:** zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a flood plain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

**Floodproofing:** any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Flood Protection Elevation (FPE):** the Base Flood Elevation plus the Freeboard.

  a. In “Special Flood Hazard Areas” where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one and a half (1.5) feet of freeboard; and

  b. In “Special Flood Hazard Areas” where no BFE has been established, this elevation shall be at least one and a half (1.5) feet above the highest adjacent grade.

**Flood Protection System:** those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a “special flood hazard” and the extent of the depths of associated flooding. Such a system typically includes dams, reservoirs, levees, or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

**Floodway:** the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

**Freeboard:** a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be one and a half (1.5) feet.

**Functionally Dependent Use:** a facility that cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair facilities. The term does not include long-term storage, manufacture, sales, or service facilities.
Highest Adjacent Grade (HAG): the highest natural elevation of the ground surface prior to construction, adjacent to the proposed walls of a structure. Refer to the FEMA Elevation Certificate for HAG related to building elevation information.

Historic Structure: a structure that is:

a. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or to a district preliminarily determined by the Secretary to qualify as a registered historic district;

c. Individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or

d. Individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either:

   1. by an approved state program as determined by the Secretary of the Interior, or
   2. directly by the Secretary of the Interior in states without approved programs.

Letter of Map Change (LOMC): a general term used to refer to the several types of revisions and amendments to FEMA maps that can be accomplished by letter. They include Letter of Map Amendment (LOMA), Letter of Map Revision (LOMR), and Letter of Map Revision based on Fill (LOMR-F)

1. **Letter of Map Amendment (LOMA):** an official amendment, by letter, to an effective National Flood Insurance Program (NFIP) map. A LOMA establishes a property’s location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

2. **Letter of Map Revision (LOMR):** FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or a Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

3. **Letter of Map Revision Based on Fill (LOMR-F):** FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of
fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.

4. **Conditional Letter of Map Revision (CLOMR):** A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS). Upon submission and approval of certified as-built documentation, a Letter of Map Revision (LOMR) may be issued by FEMA to revise the effective FIRM. Building Permits and/or Flood Development Permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

**Levee:** a man-made structure, usually an earthen embankment, designed and constructed according to sound engineering practices, to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

**Levee System:** a flood protection system that consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest Adjacent Grade (LAG):** the lowest point of the ground level next to the structure. Refer to the FEMA Elevation Certificate for LAG related to building elevation information.

**Lowest Floor:** the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR § 60.3 and this Chapter.

**Manufactured Home:** a structure, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term “Manufactured Home” does not include a “Recreational Vehicle.”

**Manufactured Home Park or Subdivision:** a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Market Value:** the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

**Mean Sea Level:** for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum (such as North America Vertical Datum of 1988 - NAVD88) to which Base Flood Elevations (BFEs) shown on a community’s FIRM are referenced.

**Mudslide (i.e., mudflow):** describes a condition where there is a river, flow, or inundation of liquid mud down a hillside usually as a result of a dual condition of loss of brush cover and the subsequent accumulation of water on the ground preceded by a period of unusually heavy or sustained rain. A mudslide (i.e., mudflow) may occur as a distinct phenomenon while a landslide is in progress, and will
be recognized as such by the Administrator only if the mudflow, and not the landslide, is the proximate cause of damage that occurs.

**Mudslide (i.e., mudflow) Area Management**: the operation of an overall program of corrective and preventive measures for reducing mudslide (i.e., mudflow) damage, including but not limited to emergency preparedness plans, mudslide control works, and flood plain management regulations.

**Mudslide (i.e., mudflow) Prone Area**: an area with land surfaces and slopes of unconsolidated material where the history, geology, and climate indicate a potential for mudflow.

**National Flood Insurance Program (NFIP)**: The NFIP is a Federal program created by Congress to mitigate future flood losses nationwide through sound, community-enforced building and zoning ordinances and to provide access to affordable, federally backed flood insurance protection for property owners.

**New Construction**: for floodplain management purposes, a structure for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Any construction started after October 15, 1982, and before the effective start date of this floodplain management Chapter is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within one hundred eighty (180) days of permit issuance.

**New Manufactured Home Park or Subdivision**: a place where the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community on October 15, 1982.

**Post-FIRM**: construction or other development for which the “start of construction” occurred on or after the effective date of the initial Flood Insurance Rate Map (FIRM).

**Pre-FIRM**: construction or other development for which the “start of construction” occurred before October 15, 1982, the effective date of the initial Flood Insurance Rate Map (FIRM).

**Recreational Vehicle**: a vehicle that is:

a. Built on a single chassis, and  
b. 400 square feet or less when measured at the largest horizontal projection, and  
c. Designed to be self-propelled or permanently towed by a light duty truck, and  
d. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Regulatory Floodway**: See Floodway

**Remedy a Violation**: to bring the structure or other development into compliance with State or local flood plain management regulations, or, if this is not possible, to reduce the impacts of its non-compliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this Chapter such
ordinance or regulations, or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

**Repetitive Loss Structure**: An NFIP-insured structure that has had at least two paid flood losses of more than one thousand dollars ($1,000) each in any 10-year period since 1978.

**Riverine**: relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

**Special Flood Hazard Area (SFHA)**: the land in the flood plain within a community subject to a one percent (1%) or greater chance of flooding in any given year. For purposes of these regulations, the term “special flood hazard area” is synonymous in meaning with the phrase “area of special flood hazard”.

**Start of Construction**: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations; nor the erection of temporary forms; nor includes the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Structure**: a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

**Substantial Damage**: damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent (50%) of its market value before the damage occurred. See definition of “substantial improvement”. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

**Substantial Improvement**: any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a “historic structure”, provided that the alteration will not preclude the structure's continued designation as a “historic structure” and the alteration is approved by variance issued pursuant to this Chapter.

**Temperature Controlled:** having the temperature regulated by a heating and/or cooling system, built-in or appliance.

**Variance:** a grant of relief by the governing body from a requirement of this Chapter.

**Violation:** the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

**Water Surface Elevation:** the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988 (or other specified datum), of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

**Watercourse:** a lake, river, creek, stream, wash, channel, or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur. (Ord. 3184, 05-10-18)

**10-4-3 GENERAL PROVISIONS**

**A. Lands to Which This Chapter Applies**

This Chapter shall apply to all Special Flood Hazard Areas within the jurisdiction of the City of Idaho Falls. Nothing in this Chapter is intended to allow uses or structures that are otherwise prohibited by the City Zoning Ordinance.

**B. Basis for Special Flood Hazard Areas**

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in its Flood Insurance Study (FIS) for City of Idaho Falls, Bonneville County, Idaho, dated April 1982, with accompanying Flood Insurance Rate Maps (FIRM) or Digital Flood Insurance Rate Maps (DFIRM), and other supporting data, are adopted by reference and declared a part of this Chapter. The FIS and the FIRM are on file at the office of the City Clerk.

**C. Establishment of Floodplain Development Permit**

A Floodplain Development Permit shall be required in conformance with the provisions of this Chapter prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section(4)(B) of this Chapter.

**D. Compliance**
No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this Chapter and other applicable regulations.
E. Abrogation and Greater Restrictions

This Chapter shall not in any way repeal, abrogate, impair, or remove the necessity of compliance with any other laws, ordinances, regulations, easements, covenants, or deed restrictions, etcetera. However, where this Chapter and another conflict or overlap, whichever imposes more stringent or greater restrictions shall control.

F. Interpretation

In the interpretation and application of this Chapter all provisions shall be:

1. Considered as minimum requirements;
2. Liberally construed in favor of the governing body; and
3. Deemed neither to limit nor repeal any other powers granted under state statutes.

G. Warning and Disclaimer of Liability

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur. Flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the City of Idaho Falls or by any officer or employee thereof for flood damages that result from reliance on this Chapter or an administrative decision lawfully made hereunder.

H. Penalties for Violation

No structure or land shall hereafter be located, extended, converted, or altered unless in full compliance with the terms of this Chapter and other applicable regulations.

Violation of the provisions of this Chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than an amount allowed by the State of Idaho for a misdemeanor violation or an amount set from time to time by Resolution of the Council or imprisoned for not more than one hundred eighty (180) days, or a combination thereof. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful actions as is necessary to prevent or remedy any violation. (Ord. 3003, 4-23-15; Ord. 3184, 05-10-18)
10-4-4 ADMINISTRATION

A. Designation of Floodplain Ordinance Administrator

The Assistant Planning Director, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this Chapter.

B. Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

1. Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this Chapter have been satisfied.

2. Review all proposed development within Special Flood Hazard Areas to assure that all necessary Local, State, and Federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.

3. Notify adjacent communities and the Idaho Department of Water Resources State Coordinator for the National Flood Insurance Program (NFIP) prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

4. Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

5. Prevent encroachments into floodways and flood fringe areas unless the certification and flood hazard reduction provisions of Section (5)(E) of this Chapter are met.

6. Obtain actual elevation (in relation to mean sea level) of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section (4)(C)(3) of this Chapter.

7. Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section (4)(C)(3) of this Chapter.

8. Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section (4)(C)(3) of this Chapter.

9. When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section (4)(C)(3) and Section (5)(B)(2) of this Chapter.
10. Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or flood fringe areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

11. When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section (3)(B) of this Chapter, obtain, review, and reasonably utilize any BFE data, along with floodway data or flood fringe area data available from a Federal, State, or other source, including data developed pursuant to Section (5)(C)(2) of this Chapter, in order to administer the provisions of this Chapter.

12. When Base Flood Elevation (BFE) data is provided but no floodway or flood fringe area data has been provided in accordance with the provisions of Section (3)(B), obtain, review, and reasonably utilize any floodway data or flood fringe area data available from a Federal, State, or other source in order to administer the provisions of this Chapter.

13. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area (SFHA) is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

14. Permanently maintain all records that pertain to the administration of this Chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

15. Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this Chapter and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

16. Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Chapter, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

17. Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or
misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

18. Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

19. Follow through with corrective procedures of Section (4)(D) of this Chapter.

20. Review, provide input, and make recommendations for variance requests.

21. Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps, and studies adopted in accordance with the provisions of Section (3)(B) of this Chapter, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify the NFIP State Coordinator and FEMA of your community’s mapping needs.

22. Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

C. Floodplain Development Application, Permit, and Certification Requirements

1. Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

   a. A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

      i. the nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

      ii. the boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section (3)(B) of this Chapter, or a statement that the entire lot is within the Special Flood Hazard Area;

      iii. the flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section (3)(B) of this Chapter;

      iv. the boundary of the floodway(s) or flood fringe area(s) as determined in Section (3)(B) of this Chapter;

      v. the Base Flood Elevation (BFE) where provided as set forth in Section (3)(B); Section (3)(C); or Section (5)(C) of this Chapter;
vi. the old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

b. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

i. Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;

ii. Elevation in relation to mean sea level to which any non-residential structure in Zone A, AE, AH, AO, or A1-30 will be floodproofed; and

iii. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

c. If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-33) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

d. A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Chapter are met. These details include but are not limited to:

i. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation, or on columns/posts/piers/piles/shear walls); and

ii. Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section (5)(A)(8)(i-vi) of this Chapter when solid foundation perimeter walls are used in Zones A, AE, AH, AO, and A1-30.

e. Usage details of any enclosed areas below the lowest floor.

f. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

g. Certification that all other Local, State, and Federal permits required prior to floodplain development permit issuance have been received.

h. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of Section (5)(B)(5) and (6) of this Chapter are met.

i. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and

j. A map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
2. Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

   a. A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, rip-rap, docks, grading, paving, excavation or drilling operations, or storage of equipment or materials, etcetera).

   b. The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Article III, Section B.

   c. The Flood Protection Elevation required for the lowest floor and all attendant utilities.

   d. The Flood Protection Elevation required for the protection of all public utilities.

   e. All certification submittal requirements with timelines.

   f. A statement that no fill material or other development shall encroach into the floodway or flood fringe area of any watercourse, as applicable.

   g. The flood openings requirements, if in Zones A, AE, AH, AO, or A1-30.

   h. All floodplain development permits shall be conditional upon the start of construction of work within one hundred eighty (180) days. A floodplain development permit shall expire one hundred eighty (180) days after issuance unless the permitted activity has commenced as per the Start of Construction definition.

   i. A statement of the limitations of below BFE enclosure uses, if applicable. (i.e., parking, building access and limited storage only).

   j. A statement that all materials below BFE/FPE must be flood resistant materials.

3. Certification Requirements.

   a. Elevation Certificates

      i. A Construction Drawings Elevation Certificate (FEMA Form 86-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the lowest floor, in relation to mean sea level. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

      ii. A final as-built Finished Construction Elevation Certificate (FEMA Form 86-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of final as-built
construction of the elevation of the lowest floor and all attendant utilities. The 
Floodplain Administrator shall review the certificate data submitted. 
Deficiencies detected by such review shall be corrected by the permit holder 
immediately and prior to Certificate of Compliance/Occupancy issuance. In 
some instances, another certification may be required to certify corrected as-
built construction. Failure to submit the certification or failure to make required 
corrections shall be cause to withhold the issuance of a Certificate of 
Compliance/Occupancy. 

The Finished Construction Elevation Certificate certifier shall provide at least 
two (2) photographs showing the front and rear of the building taken within 
ninety (90) days from the date of certification. The photographs must be taken 
with views confirming the building description and diagram number provided in 
Section A. To the extent possible, these photographs should show the entire 
building including foundation. If the building has split-level or multi-level areas, 
provide at least two (2) additional photographs showing side views of the 
building. In addition, when applicable, provide a photograph of the foundation 
showing a representative example of the flood openings or vents. All 
photographs must be in color and measure at least 3” × 3”. Digital photographs 
are acceptable.

b. Floodproofing Certificate. If non-residential floodproofing is used to meet the Flood 
Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), 
with supporting data, an operational plan, and an inspection and maintenance plan are 
required prior to the actual start of any new construction. It shall be the duty of the 
permit holder to submit to the Floodplain Administrator a certification of the 
floodproofed design elevation of the lowest floor and all attendant utilities, in relation to 
mean sea level. Floodproofing certification shall be prepared by or under the direct 
supervision of a professional engineer or architect and certified by same. The 
Floodplain Administrator shall review the certificate data, the operational plan, and the 
inspection and maintenance plan. Deficiencies detected by such review shall be 
corrected by the applicant prior to permit approval. Failure to submit the certification 
or failure to make required corrections shall be cause to deny a Floodplain Development 
Permit. Failure to construct in accordance with the certified design shall be cause to 
withhold the issuance of a Certificate of Compliance/Occupancy.

c. If a manufactured home is placed within Zone A, AE, AH, AO, or A1-30 and the 
elevation of the chassis is more than thirty-six (36”) inches in height above grade, an 
gineered foundation certification is required in accordance with the provisions of 
Section (5)(B)(3)(b).

d. If a watercourse is to be altered or relocated, the following shall all be submitted by the 
permit applicant prior to issuance of a floodplain development permit:

   i. a description of the extent of watercourse alteration or relocation; and
   ii. a professional engineer’s certified report on the effects of the proposed project 
on the flood-carrying capacity of the watercourse and the effects to properties 
located both upstream and downstream; and
iii. a map showing the location of the proposed watercourse alteration or relocation; and
iv. an Idaho Stream Channel Alteration Permit approval shall be provided by the applicant to the Floodplain Administrator.

e. Certification Exemptions. The following structures, if located within Zone A, AE, AH, AO, or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items a and b of this subsection:

i. Recreational Vehicles meeting requirements of Section (5)(B)(5)(a);

ii. Temporary Structures meeting requirements of Section (5)(B)(6); and

iii. Accessory Structures less than 200 square feet meeting requirements of Section (5)(B)(7).

4. Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

a. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work. In the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

b. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

c. Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

d. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the adopted Idaho Building Code and this Chapter is required.

D. Corrective Procedures

1. Violations to be Corrected. When the Floodplain Administrator finds violations of applicable State and local laws, it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

2. Actions in Event of Failure to Take Corrective Action. If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner
written notice, by certified or registered mail to the owner’s last known address or by personal service, stating:

a. that the building or property is in violation of the floodplain management regulations;

b. that a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

c. that following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

3. Order to Take Corrective Action. If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of this Chapter, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

4. Appeal. Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

a. Failure to Comply with Order. If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor and shall be punished at the discretion of the court.

E. Variance Procedures

1. The Board of Adjustment as established by the City, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this Chapter.

2. Variances may be issued for:

   a. the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

   b. functionally dependent facilities, if determined to meet the definition as stated in Section 2 of this Chapter, provided provisions of Section 4(E)(9)(b), (c), and (d), have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
c. any other type of development, provided it meets the requirements of this Section.

3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Chapter, and:

a. the danger that materials may be swept onto other lands to the injury of others;

b. the danger to life and property due to flooding or erosion damage;

c. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d. the importance of the services provided by the proposed facility to the community;

e. the necessity to the facility of a waterfront location as defined under Section 2 of this Chapter as a functionally dependent facility, where applicable;

f. the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

g. the compatibility of the proposed use with existing and anticipated development;

h. the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i. the safety of access to the property in times of flood for ordinary and emergency vehicles;

j. the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k. the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

4. The applicant shall include a written report addressing each of the above factors in Section (4)(E)(3)(a-k) with their application for a variance.

5. Upon consideration of the factors listed above and the purposes of this Chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Chapter.

6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.

8. Conditions for Variances:
   a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
   b. Variances shall not be issued within any designated floodway or flood fringe area if the variance would result in any increase in flood levels during the base flood discharge.
   c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
   d. Variances shall only be issued prior to development permit approval.
   e. Variances shall only be issued upon:
      i. a showing of good and sufficient cause;
      ii. a determination that failure to grant the variance would result in exceptional hardship; and
      iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

9. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
   a. The use serves a critical need in the community.
   b. No feasible location exists for the use outside the Special Flood Hazard Area.
   c. The lowest floor of any structure is elevated or floodproofed to at least the Flood Protection Elevation.
   d. The use complies with all other applicable Federal, State and local laws.

10. The City will notify the State NFIP Coordinator of the Idaho Department of Water Resources of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

11. Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Idaho Code. (Ord. 3184, 05-10-18)

10-4-5 PROVISIONS FOR FLOOD HAZARD REDUCTION
A. General Standards

In all Special Flood Hazard Areas the following provisions are required:

1. All new construction, substantial improvements, and development shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

2. All new construction, substantial improvements, and development shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.

3. All new construction, substantial improvements, and development shall be constructed by methods and practices that minimize flood damages.

4. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

8. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor shall:
   a. be constructed entirely of flood resistant materials at least to the Flood Protection Elevation; and
   b. include, in Zones A, AE, AH, AO, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
      i. A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;
      ii. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
iii. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

iv. The bottom of all required flood openings shall be no higher than one (1) foot above the interior or exterior adjacent grade;

v. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

vi. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this Chapter, shall meet the requirements of “new construction” as contained in this Chapter.

10. Nothing in this Chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Chapter and located totally or partially within the floodway, flood fringe area, or stream setback, provided there is no additional encroachment below the Flood Protection Elevation in the floodway, flood fringe area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this Chapter.

11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section (4)(E)(9) of this Chapter. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Flood Protection Elevation and certified in accordance with the provisions of Section (4)(C)(3) of this Chapter.

12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding.

13. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

14. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

15. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC 1334.
16. When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

17. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

B. Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section (3)(B), or Section (5)(D), the following provisions, in addition to the provisions of Section (5)(A) of this Chapter, are required:

1. Residential Construction. New construction, substantial improvements, and development of any residential structure (including manufactured homes) shall have the lowest floor, including basement, elevated no lower than the Flood Protection Elevation, as defined in Section 2 of this Chapter.

2. Non-Residential Construction. New construction, substantial improvements, and development of any commercial, industrial, or other non-residential structure shall have the lowest floor, including basement, elevated no lower than the Flood Protection Elevation, as defined in Section 2 of this Chapter. Structures located in Zones A, AE, AH, AO, and A1-30 may be floodproofed to the Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AH and AO Zones, the floodproofing elevation shall be in accordance with Section (5)(F)(2) of this Chapter. A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section (4)(C)(3) of this Chapter, along with the operational plan and the inspection and maintenance plan.

3. Manufactured Homes.
   a. New and replacement manufactured homes shall be elevated so that the lowest floor of the manufactured home is no lower than the Flood Protection Elevation, as defined in Section 2 of this Chapter.
   b. Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the Idaho Division of Building Safety’s “Idaho Manufactured Home Installation Standard” in accordance with Idaho Code § 44-2201(2). Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
c. All enclosures or skirting below the lowest floor shall meet the requirements of Section (5)(B)(4).

d. An evacuation plan must be developed for evacuation of all residents of all new, substantially improved, or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.


a. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are

   i. not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure; or

   ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

b. Additions to post-FIRM structures that are a substantial improvement with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

c. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are

   i. not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; or

   ii. a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

d. Any combination of repair, reconstruction, rehabilitation, addition, or improvement of a building or structure taking place during a five (5) year period, the cumulative cost of which equals or exceeds 50 percent (50%) of the market value of the structure before the improvement or repair is started, must comply with the standards for new construction. For each building or structure, the five (5) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this Chapter. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

   i. any project for improvement of a building required to correct existing health, sanitary, or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions; or
ii. any alteration of a historic structure provided that the alteration will not preclude the structure’s continued designation as a historic structure.

5. Recreational Vehicles. Recreational vehicles shall be either:

   a. Temporary Placement

      i. be on site for fewer than one hundred eighty (180) consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or

   b. Permanent Placement.

      i. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction, as set forth in Section (5)(A) of this Chapter.

6. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

   a. a specified time period for which the temporary use will be permitted. Time specified may not exceed six (6) months, renewable up to one (1) year;

   b. the name, address, and phone number of the individual responsible for the removal of the temporary structure;

   c. the time frame prior to the event at which a structure will be removed (i.e., immediately upon flood warning notification);

   d. a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

   e. designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

7. Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, elevation or floodproofing certifications are required for all accessory structures in accordance with Section (4)(C)(3) of this Chapter, and the following criteria shall be met:

   a. Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking, or restroom areas);

   b. Accessory structures shall not be temperature-controlled;

   c. Accessory structures shall be designed to have low flood damage potential;
d. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

e. Accessory structures shall be firmly anchored in accordance with the provisions of Section (5)(A)(1) of this Chapter;

f. All service facilities, such as electrical, shall be installed in accordance with the provisions of Section (5)(A)(4) of this Chapter; and

g. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Flood Protection Elevation in conformance with the provisions of Section 5 A(8)(b)(i-vi) of this Chapter.

An accessory structure with a footprint less than two hundred (200) square feet and is a minimal investment of seven thousand five hundred dollars ($7,500) or less and satisfies the criteria outlined in a - g above is not required to meet the elevation or floodproofing standards of Section (5)(B)(2) of this Chapter.

8. Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

   a. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse, or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the base flood, including the effects of buoyancy (assuming the tank is empty);

   b. Elevated above-ground tanks, in flood hazard areas shall be attached to and elevated to or above the design flood elevation on a supporting structure that is designed to prevent flotation, collapse, or lateral movement during conditions of the base flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

   c. Not elevated above-ground tanks, that do not meet the elevation requirements of Section (5)(B)(2) of this Chapter shall be permitted in flood hazard areas provided the tanks are anchored or otherwise designed and constructed to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty and the effects of flood-borne debris.

   d. Tank inlets, fill openings, outlets and vents shall be:

      i. at or above the flood protection elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the base flood; and

      ii. anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood.

9. Construction of Below-Grade Crawlspace.
a. The interior grade of a crawlspace must not be below the BFE and must not be more than two (2) feet below the exterior lowest adjacent grade (LAG).

b. The height of the below-grade crawlspace, measured from the interior grade of the crawlspace to the top of the crawlspace foundation wall, must not exceed four (4) feet at any point.

c. There must be an adequate drainage system that removes floodwaters from the interior area of the crawlspace. The enclosed area should be drained within a reasonable time after a flood event.

d. The velocity of floodwaters at the site should not exceed five (5) feet per second for any crawlspace.

10. Other Development in regulated floodways and flood fringe.

a. Fences that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, in regulated floodways and flood fringe shall meet the limitations of Section (5)(E) of this Chapter.

b. Retaining walls, bulkheads, sidewalks, and driveways that involve the placement of fill in regulated floodways and flood fringe shall meet the limitations of Section (5)(E) of this Chapter.

c. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings, and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, which encroach into regulated floodways and flood fringe, shall meet the limitations of Section (5)(E) of this Chapter.

d. Drilling water, oil, and/or gas wells including fuel storage tanks, apparatus, and any equipment at the site that encroach into regulated floodways and flood fringe shall meet the limitations of Section (5)(E) of this Chapter.

e. Docks, piers, boat ramps, marinas, moorings, decks, docking facilities, port facilities, shipbuilding, and ship repair facilities that encroach into regulated floodways and flood fringe shall meet the limitations of Section (5)(E) of this Chapter.

f. Gravel and sand and their subsequent extraction on lands within the Special Flood Hazard Area that encroach into regulated floodways and flood fringe shall meet the limitations of Section (5)(E) of this Chapter. A Reclamation Plan Bond for LOMR shall be posted by the mine/property owner with the City to cover the estimated costs of a Reclamation LOMR as determined by the mine/property owner and shall provide supporting documentation for the estimated LOMR cost. A Reclamation LOMR shall be completed within one year of the completion of mining. Upon failure of the property owner to obtain a Reclamation LOMR of the mining site within one (1) year, the Reclamation Plan Bond for LOMR will be forfeited. (OPTIONAL)

11. Subdivision plats.

Flood zones.
a. A note must be provided on the final plat documenting the current flood zone in which the property or properties are located. The boundary line must be drawn on the plat in situations where two (2) or more flood zones intersect over the property or properties being surveyed.

b. FEMA FIRM panel(s): #160xxxxxC, and 160xxxxxE, etc.
   FIRM effective date(s): mm/dd/year
   Flood Zone(s): Zone X, Zone A, Zone AE, Zone AO, Zone, AH, Zone D, etc.
   Base Flood Elevation(s): AE _____0 ft., etc.
   Flood Zones are subject to change by FEMA and all land within a floodway or floodplain is regulated by 10-1-5(0) of the City Subdivision Ordinance.

12. Critical Facilities:

   As a best practice, FEMA recommends protection that exceeds code minimums. For example, FEMA 543, Design Guide for Improving Critical Facility Safety from Flooding and High Winds (2007) recommends protecting critical facilities to withstand at least a 0.2-percent-annual-chance flood event (often called the “500-year flood event”). Flood elevations for the 0.2-percent-annual-chance flood may be greater than the elevation specified by ASCE 24. If federal funding or other Federal action is involved, the requirements of Executive Order 11988 – Floodplain Management may necessitate protection of critical actions to the 500-year flood elevation (critical actions may include the construction and repair of critical facilities).

   In existing facilities that have not been substantially damaged, it may not be possible to floodproof or elevate to provide protection from the 0.2-percent-annual-chance flood event. In those instances, floodproofing or elevating as high as practical is recommended.

C. Standards for Floodplains without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Zone A (also known as Unnumbered A Zones) and established in Section (3)(B) of this Chapter, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section (5)(A) of this Chapter, shall apply:

The BFE used in determining the Flood Protection Elevation (FPE) shall be determined based on the following criteria:

1. When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Chapter and shall be elevated or floodproofed in accordance with standards in Sections (5)(A) and (B) of this Chapter.

2. When floodway or flood fringe data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and flood fringe areas shall also comply with the requirements of Sections (5)(B) and (E).

3. All subdivision, manufactured home park, and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty
(50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section (3)(B) and utilized in implementing this Chapter.

4. When Base Flood Elevation (BFE) data is not available from a Federal, State, or other source as outlined above, the lowest floor shall be elevated or floodproofed (non-residential) to two feet (2.0 ft.) above the Highest Adjacent Grade (HAG) at the building site or to the Flood Protection Elevation (FPE) whichever is higher, as defined in Section 2 of this Chapter. All other applicable provisions of Section (5)(B) of this Chapter shall also apply.

D. Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Flood Fringe Areas.

Along rivers and streams where Base Flood Elevation (BFE) data is provided by FEMA or is available from another source but neither floodway nor flood fringe areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

1. Standards of Sections (5)(A) and (B) of this Chapter; and

2. Until a regulatory floodway or flood fringe area is designated, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the community.
E. Standards for Floodways and Flood Fringe Areas

Areas designated as floodways or flood fringe areas are located within the Special Flood Hazard Areas established in Section (3)(B). The floodways and flood fringe areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Section (5)(A) and (B), shall apply to all development within such areas:

1. No encroachments, including fill, new construction, substantial improvements, and other developments shall be permitted unless:
   a. it is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
   b. a Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

2. If Section (5)(E)(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Chapter.

3. Manufactured homes may be permitted provided the following provisions are met:
   a. the anchoring and the elevation standards of Section (5)(B)(3) of this Chapter; and
   b. the encroachment standards of Section (5)(E)(1) of this Chapter.

F. Standards for Areas of Shallow Flooding (Zone AO, AH, AR/AO, or AR/AH)

Located within the Special Flood Hazard Areas established in Section (3)(B) of this Chapter, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections (5)A and (B) of this Chapter, all new construction and substantial improvements shall meet the following requirements:

1. The lowest floor shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of two (2) feet, above the highest adjacent grade; or at least two (2) feet above the highest adjacent grade if no depth number is specified.

2. Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section (5)(F)(1) of this Chapter so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting
hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section (6)(C)(3), and Section (5)(B)(2) of this Chapter.

3. Adequate drainage paths shall be provided around structures on slopes to guide floodwaters around and away from proposed structures. (Ord. 3184, 05-10-18)

10-4-6 LEGAL STATUS PROVISIONS

A. Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance

This Chapter, in part, comes forward by re-enactment of some of the provisions included in the Flood Damage Prevention Ordinance enacted October 15, 1982, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Chapter shall not affect any action, suit, or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the City of Idaho Falls, Idaho, enacted on October 15, 1982, as amended, which are not reenacted herein are repealed. (Ord. 3184, 05-10-18)

B. Effect upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a Floodplain Development Permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this Chapter. Provided, however, that when construction is not begun under such outstanding permit within a period of one hundred eighty (180) days subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Chapter. (Ord. 3184, 05-10-18)
CHAPTER 5
SURFACE DRAINAGE FEES

SECTION:

10-5-1 Statement of Purpose
10-5-2 Definitions
10-5-3 Surface Drainage Facilities
10-5-4 Surface Drainage Charge
10-5-5 Amount of Charge
10-5-6 Manner and Time of Payment
10-5-7 Surface Drainage Fund
10-5-8 Expenditures Authorized
10-5-9 Local Improvement Districts

10-5-1: STATEMENT OF PURPOSE: Development of land within the City increases the need for storm drainage lines, pumps and equipment to convey and dispose of surface drainage waters. Proper collection and disposal of such surface waters is necessary to protect the health, safety and welfare of the inhabitants of the City. It is inequitable to place upon the ad valorem tax base the entire burden of constructing new storm drainage facilities necessitated because of the development of land within or adjacent to the City. Therefore, the purpose of this Chapter is to develop a fair and reasonable means of allocating the expense of constructing new storm drainage facilities between the developers of land and revenues derived from ad valorem taxes levied upon all lands located within the City.

10-5-2: DEFINITIONS: Certain terms used in this Chapter shall have the meanings ascribed below:

ACCESSIBLE LAND: Any undeveloped lot or tract of land for which surface drainage is not wholly self-contained or for which any surface water flowing therefrom will come upon any public street, alley, gutter or other public property located in the City or from which surface drainage will flow into any drain, interceptor or other surface drainage facility of the City, as a result of development thereof. The term shall also include land where more than fifty percent (50%) of the floor area of an existing building is demolished in order to construct a new structure thereon.

DEVELOPED LAND: Any lot or tract of land upon which a structure has been erected or upon which a full covering or "black top" or similar substance has been laid. No lot or parcel of land shall be deemed developed merely because platting or on-site improvements have been made, or because sales activities have commenced. The application for a building permit shall be prima facie evidence of an intent to develop land.

DRAINAGE DISPOSAL FACILITIES: Any works or equipment by which surface drainage water is finally removed from the City or from an area of the City. Such facilities may include, among other things, pumping, piping, impounding, spraying or evaporation systems, but do not include the transfer of surface water from one land area to another where further disposal is needed.

DRAINAGE INTERCEPTOR: A principal or main drainage line which maintains continuity from the point of disposal of the drainage to the most distant point of collection thereof and which intercepts...
one or more lateral lines or services or interior drain lines draining a subdivision or local area. "Drainage Interceptor" excludes any lateral line or interior drain line within a subdivision which drains storm water originating primarily from within such subdivision.

DRAINAGE TREATMENT FACILITIES: Facilities which tend to improve the quality of surface water to meet imposed standards before conducting it for disposal to any waterway or impoundment.

STRUCTURE: A walled and roofed building.

10-5-3: SURFACE DRAINAGE FACILITIES: No property shall be annexed to the City or platted or developed within the City unless adequate provisions are made for disposal of surface waters originating therefrom, either by wholly self-contained system of pumps and retention ponds or by use of publicly-owned storm drainage interceptors and ponds. For purposes of determining adequacy of such facilities a minimum design standard of 1.33 inches over frozen ground shall be used.

10-5-4: SURFACE DRAINAGE CHARGE: A surface drainage fee shall be charged to the owners of any assessable land at the time the land is annexed to the City, or subdivided or platted within the City or for which surface drainage into the streets, alleys, gutters or other storm drainage facilities of the City is requested or will occur as a result of development of the land, irrespective of whether the land is located within or without the City. Nothing herein shall require payment of a surface drainage fee for developed land existing on the effective date of this Code.

10-5-5: AMOUNT OF CHARGE: The surface drainage fee shall be in an amount set from time to time by Resolution of the Council. In computing the area of any tract of land for purposes of applying such fee, the area of any public street, way, park, storm water retention pond or any canal, irrigation lateral or natural waterway shall be excluded from the total area of assessable land. (Ord. 2964, 8-14-14)

10-5-6: MANNER AND TIME OF PAYMENT:

(A) All surface drainage fees shall be paid to the City Treasurer.

(B) If platted land is being annexed to the City, payment shall be made in full upon annexation. If the land is being or has been annexed unplatted, payment shall be made when the land is subdivided, platted or developed. If the assessable land is located outside the City the surface drainage fee shall be paid prior to the discharge of surface drainage into any street, gutter, storm drainage line or other surface drainage facility or land located within the City.

10-5-7: SURFACE DRAINAGE FUND: A Surface Drainage Fund is hereby established into which shall be deposited all surface drainage fees paid pursuant to the provisions of this Chapter.

10-5-8: EXPENDITURES AUTHORIZED: Moneys in the "Surface Drainage Fund" may be expended only for the following purposes:

(A) Design, development and construction of drainage interceptors.
(B) Design, development and construction of drainage treatment or drainage disposal facilities.

10-5-9: LOCAL IMPROVEMENT DISTRICTS: Notwithstanding the provisions of this Chapter, the City may establish local improvement districts within the City to defray the expenses of constructing or acquiring surface drainage facilities in areas where the same are deemed necessary or advisable. Land for which surface drainage charges have been paid pursuant to the terms of this Chapter shall receive credit against the amount of any assessment made against such land if a drainage interceptor or a treatment or disposal facility is constructed or acquired as an improvement by the district levying the assessment.
CHAPTER 6
STREET NUMBERING

SECTION:

10-6-1: Supervision of Street Numbering
10-6-2: Baseline Numbering Systems
10-6-3: Method of Numbering
10-6-4: Address Identification

10-6-1: SUPERVISION OF STREET NUMBERING: The Community Development Services Department shall supervise the numbering of all houses and buildings upon the streets and avenues within the City. (Ord. 3003, 4-23-15)

10-6-2: BASELINE NUMBERING SYSTEMS:

(A) Baseline Systems. All residences and businesses within the City shall be numbered in accordance with the street numbering system set forth in this Chapter. All buildings within the City shall be numbered in accordance with two separate baseline systems, each of which shall have a north-south baseline and an east-west baseline. The intersection of each of such baselines shall hereafter be referred to as the initial points.

(B) Original Townsite Baseline. The initial point for the following described baseline system shall be the junction of the center line of South Eastern Avenue and the center line of Walnut Street extended west. The north-south baseline shall run along the center line of Eastern Avenue, and the east-west baseline shall run along the center line of Walnut Street extended west to Interstate 15. All residences and businesses located within the following described area shall be numbered in accordance with such baselines, to-wit: Commencing at the junction of South Eastern Avenue and West 13th Street extended; thence easterly to South Boulevard; thence northerly along South Boulevard to West Elva Street; thence west to Riverside Drive; thence northwesterly along the east bank of the Snake River to Highway 20; thence southwesterly along Highway 20 to I-15; thence southerly along I-15 to Pancheri Drive; thence easterly along Pancheri Drive to South Yellowstone Avenue; thence northeasterly on South Yellowstone Avenue to the junction of South Yellowstone and Short Street; thence easterly to the point of beginning. Such area shall hereafter be referred to as the Original Townsite.

(C) Areas Other Than Original Townsite. The numbering of all houses and businesses located within all portions of the City other than the Original Townsite, shall conform to the following described baseline system. The initial point for this area of the City shall be the junction of the center lines of First Street extended and North Boulevard. The north-south baseline shall run along the center line of Boulevard, and the east-west baseline shall run along the center line of First Street on the east and along the center line of a line commencing at the initial point and thence southwesterly to the intersection of West Broadway and I-15, and thence westerly along the center line of West Broadway to the City limits.

10-6-3: METHOD OF NUMBERING:
(A) Numbering of Streets Generally. Numbering shall commence at the initial point for each baseline system. All blocks shall be numbered with fifty (50) numbers to a side between two intersecting streets, except where such numbering would produce irregularity. Numbering shall extend all directions from the initial points described above with the even numbers being on the right, and the odd numbers on the left, when facing away from the initial point. Houses and buildings located on streets not extending to a baseline shall be numbered as though such street extended to a baseline. All numbers for buildings and houses located on a street shall be approximately evenly proportioned for the 50 numbers located between the two streets intersecting perpendicularly thereto. All building numbers shall conform as nearly as possible to the corresponding points on parallel or nearly parallel streets.

(B) Dual Direction Streets. If a street changes from running approximately parallel to one baseline to another perpendicular baseline, then the numbering shall change at the center of the curve in the street where such change is made, except as set forth below. If a street changes direction and then reverts to running parallel with its original direction without intersection with another street, then all houses and buildings located thereon shall be numbered as though the entire street ran in the same direction for the entire length thereof. In such case, all houses and buildings located thereon shall be numbered in even proportions for the 50 numbers on each side thereof.

(C) Dual Occupancies. Buildings having more than one occupancy shall have separate numbers at the street entrance to each occupancy.

10-6-4: ADDRESS IDENTIFICATION

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of four inches (4”) high with a minimum stroke width of one-half inch (0.5”). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure.
CHAPTER 7
FORM BASED CODE

SECTION:

10-7-1: The Idaho Falls Form Based Code Adopted
10-7-2: Purpose
10-7-3: Penalty

10-7-1 THE IDAHO FALLS FORM BASED CODE ADOPTED:

(A) The Idaho Falls Form Based Code, 2018 May Edition, is hereby adopted as an official Code of the City.
(B) Code on File. One (1) copy of the Idaho Falls Form Based Code, 2018 May Edition, shall be retained by the City Clerk for use and examination by the public. (Ord. 3148, 12-14-2017; Ord. 3185, 05-10-18)

10-7-2 PURPOSE. The purpose of this Chapter is to:
(A) adopt a form based code for the downtown area of Idaho Falls, as recommended by the Downtown Master Plan and Implementation Strategy;
(B) protect and enhance the unique and historic character of the downtown area;
(C) promote the public health, safety, and welfare;
(D) protect or enhance property values within the downtown area;
(E) provide guidance for future development in the downtown area in accordance with the Comprehensive Plan and Downtown Master Plan and Implementation Strategy;
(F) establish reasonable standards of design and uniform procedures for the development and re-development of land and buildings within the downtown area;
(G) provide for an orderly and expeditious method of processing applications for development in the downtown area; and
(H) establish appropriate penalties for violators of Chapter requirements. (Ord. 3148, 12-14-2017)

10-7-3 PENALTY. Any person who violates any provision of this Chapter is guilty of a separate misdemeanor for every twenty-four (24) hour period of continued violation. (Ord. 3148, 12-14-2017)