

**TITLE 5
CRIMINAL CODE**

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CHAPTER 1 GENERAL PROVISIONS

SECTION:

- 5-1-1: Legislative Purpose
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- 5-1-4: Union of Act and Intent
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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 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; Ord. 3332, 09-10-20)

5-1-3 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. (Ord. 3332, 09-10-20)

5-1-4 UNION OF ACT AND INTENT.

In every crime there must exist a union, or joint operation, of act and intent, or criminal negligence. (Ord. 3332, 09-10-20)

5-1-5 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. (Ord. 3332, 09-10-20)

5-1-6 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. (Ord. 3332, 09-10-20)

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: Rescinded

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 [RESCINDED]
(Ord. 3221, 11/10/2018; Ord. 3305; 04/09/2020)

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. Whenever the following words or terms are used in this Code, they 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.

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 an 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.

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.

(Ord. 3332, 09-10-20)

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. 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.

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
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5-6-1: **DEFINITIONS:** Whenever the following words or terms are used in this Code, they shall have the meanings scribed below:

- (A) **ALTERED:** Rendered permanently incapable of reproduction.
- (B) **ANIMAL CONTROL SHELTER:** Any animal shelter, lot, premises or building maintained by the City for the confinement and care of animals.
- (C) **AT LARGE:** A dog shall be deemed to be at large when off the property of the owner, and not under restraint or control.
- (D) **CAT:** A cat of an age four (4) months or older that is kept as a household pet.
- (E) **DOG:** A dog of an age four (4) months or older that is kept as a household pet.
- (F) **ENCLOSURE:** A fence or structure suitable to prevent the escape of an animal or the entry of young children.
- (G) **NEUTERED:** Rendered permanently incapable of reproduction.
- (H) **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.

(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; Ord. 3234, 12-20-18; Ord. 3332, 09-10-20)

5-6-2 LICENSE REQUIRED.

(A) It shall be unlawful for any person to keep or harbor any dog or cat within the City without paying a license fee as herein provided. Altered cats that have a current registered microchip need not be licensed. This Section shall not apply to any person owning or possessing a dog or cat 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. (Ord. 3234, 12-20-18)

(B) All dogs and cats 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. (Ord. 3234, 12-20-18)

5-6-3 LICENSE FEES.

(A) Each license for a cat or dog shall be issued for a term of one (1) year. It shall expire on December 31st of the year the license was issued. The annual fee for licensing all unaltered dogs or cats, and the annual fee for the licensing of all altered dogs and cats 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 or cat for which it was issued and shall not be transferred or used for any other animal. 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 or cat.

(B) License fees shall be waived for:

1. Any altered 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 altered 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 altered 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; Ord. 3234, 12-20-18)

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 Animal Services Manager 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. (Ord. 3234, 12-20-18)

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 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, applicable license, 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, applicable license, 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) An unaltered cat 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.
- (I) 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.
- (J) No cat shall be released from the Animal Services Shelter unless the cat is microchipped under this Chapter.
- (K) 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. (Ord. 3234, 12-20-18)

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.

(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.

Litter, weeds, and other deleterious substances upon public and private property, canal rights-of-way, streets, alleys, sidewalks, parks, rights-of-way easement, and the like, within the City detracts from the appearance of the City and reduces property values. 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, deposit, or accumulation of deleterious substances, to remove and dispose of such deleterious substances in the manner specified in this Chapter. (Ord. 2968, 10-9-14; Ord. 3279, 10-24-19)

5-8-2 DEFINITIONS.

Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

Aircraft. Any craft designed for navigation or flight in air.

Bulky Waste. Stores, water heaters, washing machines, refrigerators, freezers, microwaves, whole goods, durable consumer electronics, televisions, tires, tire rims, and similar items as well as household construction debris.

Garbage. Waste (animal, vegetable, and/or other matter) that results from the handling, packing, preparation, processing, consumption, dealing in, canning, storage, transportation, decay, or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter (including, but not by way of limitation, used tin cans, and other food containers; including all putrescible waste matter which is likely to attract flies or rodents).

Litter. Garbage and Rubbish, including, but not limited to, that which is loosely strewn, uncollected, unpackaged, or uncontained which may include paper, bottles, cans, glass, crockery, plastic, rubber, waste building materials, disposable packages, cigarette butts and other tobacco products, gum, and containers.

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.

Rubbish. Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes and Bulky Waste. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material, which will not burn at ordinary incinerator temperatures (not less than one thousand six hundred (1600) degrees F).

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; Ord. 3279, 10-24-19; Ord. 3332, 09-10-20)

5-8-3 LITTERING PROHIBITED

No person shall deposit or allow to be deposited litter in or upon any public or private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way easement, or property within the City, except in receptacles designed therefor. (Ord. 3054, 01-26-16; Ord. 3279, 10-24-19)

5-8-4 DEPOSIT OF LITTER IN RECEPTACLES.

No person shall deposit or allow to be deposited litter in any receptacle, upon any public place or private property in a manner which exceeds the capacity of such receptacle or which will create a likelihood of its being dispersed, blown, or carried by natural elements or animals. (Ord. 3054, 01-26-16; Ord. 3279, 10-24-19)

5-8-5 DEPOSIT OF PETROLEUM PRODUCTS.

No person shall pour or deposit oil or any other petroleum product upon any public or private property, canal right-of-way, public street, alley, sidewalk, park, right-of-way easement 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. (Ord. 3279, 10-24-19)

5-8-6 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; Ord. 3279, 10-24-19)

5-8-7 POSTING NOTICES.

No person shall post or affix any handbill or sign upon any public utility pole, building, sign post, lamp post, telephone pole, structure, shade tree, appurtenance, or upon any public structure, except as may be expressly authorized or required by law. (Ord. 3054, 01-26-16; Ord. 3279, 10-24-19)

5-8-8 POSTING HANDBILLS OR SIGNS.

No person shall post or affix any handbill or sign to any utility pole, building, sign post, lamp post, telephone pole, structure, shade tree, appurtenance, or any structure owned by any other person, without the consent of the owner or occupant thereof. (Ord. 3054, 01-26-16; Ord 3279, 10-24-19)

5-8-9 LITTER UPON PRIVATE PROPERTY.

It shall be unlawful and a public nuisance for any persons 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 or disbursed 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; Ord 3279, 10-24-19)

5-8-10 LITTER VIOLATION. The hauling, depositing, or allowing of litter to be deposited 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. 3279, 10-24-19)

5-8-11 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; Ord. 3279, 10-24-19)

5-8-12 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; Ord. 3279, 10-24-19)

5-8-13 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; Ord. 3279, 10-24-19)

5-8-14 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; Ord. 3279, 10-24-19)

**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. Whenever the following words or terms are used in this Code, they 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.

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.

(Ord. 3332, 09-10-20)

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 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 or dive from or drop or deposit an object or materials from any structure which is in, on, over, or contiguous with the Snake River or a canal within City limits, unless the structure is specifically designed to allow or aid entry or access to the Snake River or canal, such as a boat dock, fishing, or diving platform, or the activity is specifically authorized by the City. (Ord. 3306, 05-14-20)

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**

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: Permitted Acts
- 5-11-6: Penalties
- 5-11-7: Coercion, Intimidation, Threat and Interference Prohibited
- 5-11-8: 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 or gender expression/identity, are afforded equal opportunities in employment, housing, and public resort, accommodation, assemblage, and amusement.
- 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, and that every person has the right to the full enjoyment of places open to the general public for resort, accommodation, assemblage, and amusement. 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, housing, or public resort, accommodation, assemblage, and amusement due to sexual orientation or gender identity/expression is detrimental to the health, safety, and welfare of the City's occupants, because 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 personal and 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 are not available to all of the City's inhabitants.

H. This Chapter shall be construed and applied in a manner consistent with First Amendment jurisprudence.

(Ord. 3307, 05-14-20)

5-11-2 DEFINITIONS.

A. Deny. Any act which, directly or indirectly, by any person or their agent or employee, results or is intended to or calculated to result in whole or in part in any discrimination, distinction, restriction, or unequal treatment or representation. It also includes, but is not limited to, requiring a person to pay a larger sum than the uniform rates charged other persons, or the refusing or withholding from persons admission, patronage, custom, presence, frequenting, dwelling, staying, or lodging in any place of public resort, accommodation, assemblage, or amusement except for conditions and limitations established by law and applicable alike to all persons, regardless of sexual orientation and/or gender expression/identity.

B. 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.

C. 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.

D. Full Enjoyment. The right to use, rent, or purchase: 1. real property; 2. any service, commodity, or article of personal property offered or sold by any person or establishment open to the public and; 3. the admission of any person to accommodations, advantages, facilities or privileges of any place of public resort, accommodation, assemblage, or amusement.

- E. Gender Identity/Expression. Actual or perceived gender-related characteristics, identity, appearance, expression or behavior of a person (including gender, transgender, non-binary, gender fluid and agender), regardless of such person's biological or assigned sex at birth.
- F. Place of Public Resort, Accommodation, Assemblage, or Amusement. Any public place, licensed or unlicensed, kept for gain, hire or reward, or where charges are made for admission, service, occupancy or use of any property or facilities, whether conducted for the entertainment, housing or lodging of transient guests, or for the benefit, use or accommodation of those seeking health, recreation or rest, or for the sale of goods and merchandise, or for the rendering of personal services, or for public conveyance or transportation on land, water or in the air, including the stations and terminals thereof and the garaging/storing of vehicles, or where food or beverages of any kind are sold for consumption on the premises, or where public amusement, entertainment, sports or recreation of any kind is offered with or without charge, or where medical service or care is made available, or where the public gathers, congregates, or assembles for amusement, recreation or public purposes, or public halls, public elevators and public washrooms or bathrooms of buildings and structures occupied by two (2) or more tenants, or by the owner and one (1) or more tenants, or any public library or any educational institution wholly or partially supported by public funds, or schools of special instruction, or nursery schools, or day care facilities or children's camps. Nothing herein contained shall be construed to include, or apply to, any institute, bona fide club, or place of accommodation, which is, by its nature, distinctly private; however, where public use is permitted, such use shall be included in this definition. This definition excludes any educational facility operated or maintained by a bona fide religious or sectarian institution.
- G. 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.
- H. Sexual Orientation. Actual or perceived romantic, emotional, or sexual attraction or activity, including homosexuality, heterosexuality, bisexuality, and asexuality.

(Ord. 3307, 05-14-20)

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.

C. Use of a Place of Public Resort, Accommodation, Assemblage, or Amusement. It shall be unlawful to deny to any person the full enjoyment of any of the accommodations, advantages, facilities, or privileges of any place of public resort, accommodation, assemblage, or amusement because of sexual orientation or gender identity/expression.

(Ord. 3307, 05-14-20)

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, as interpreted by a court to which the City is subject; 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.

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.

C. This Chapter shall not prohibit an employer from adopting reasonable employee rules and policies that designate sex-specific employee-only facilities in the workplace, including restrooms, shower facilities, and dressing facilities, provided that the employer's rules and policies for employees afford reasonable accommodations based on gender identity/expression to all employees.

D. This Chapter shall not prohibit an employer from adopting reasonable dress and grooming standards not prohibited by federal law or the Idaho Code, provided that the employer's dress and grooming standards afford reasonable accommodations based on gender identity/expression to all employees.

(Ord. 3307, 05-14-20)

5-11-5 PERMITTED ACTS

A. An employee may express the employee's religious or moral beliefs and commitments in the workplace in a reasonable, non-disruptive, and non-harassing way on equal terms

with similar types of expression of beliefs or commitments allowed by the employer in the workplace.

- B. An employer shall not discharge, demote, terminate, or refuse to hire any person, or retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against any person otherwise qualified, for lawful expression or expressive activity outside of the workplace regarding the person's religious, political, or personal convictions, including convictions about marriage, family, or sexuality.

(Ord. 3307, 05-14-20)

5-11-6 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 by fine only and shall not be punished by any period of incarceration.
- 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, good faith participation in non-binding mediation, 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.

(Ord. 3307, 05-14-20)

5-11-7 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.

(Ord. 3307, 05-14-20)

5-11-8 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.

(Ord. 3307, 05-14-20)

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. 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 subsection shall be guilty of an infraction. (Ord. 3253, 05-13-19)