

**TITLE 1
GENERAL ADMINISTRATION**

| CHAPTER: | SUBJECT: |
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**CHAPTER 1
OFFICIAL CITY CODE**

SECTION:

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

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

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

Board Convened at 2 P.M.

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

Beginning at the Center of Sec. No. 18 in Tp. No. 2 North of Range No. 38 East of Boise Meridian, thence running West 1 mile to the Center of Section No. 13 in Tp. No. 2 North Range No. 37 East of B.M. thence South 1¾ of a mile, thence East One mile, thence North 1¼ of a mile to the Center of said Section no. 18 the place of beginning, including the South West quarter of Section No. 18 and the North West quarter of section 19 and the North ½ of the South West quarter of Section 19 in Tp. 2 North of Range 38 East of B.M. and the SE⁴ of sec. 13, and the NE⁴ of Sec. 24 and the N² of the South East quarter of sec. 24. In Tp. 2 N. R. no. 37 East of B.M., all situated, lying and being in the County of Bingham and Territory of Idaho.

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

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

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

Bingham Co. CCM

Aug. 26, 1891

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

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

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

R.J. Hayes
Chairman

*original document incomplete (Ord. 2963, 6-24-14)

1-1-3 TITLE: This codification of the general ordinances of the City of Idaho Falls is declared to be the official City Code of the City of Idaho Falls. (Ord. 2963, 6-24-14)

1-1-4: ACCEPTANCE: Any official copy of this Code, shall be received without further proof in all courts and in all administrative tribunals of this State. (Ord. 2963, 6-24-14)

1-1-5: AMENDMENTS: Any ordinance amending this Code shall set forth the Chapter, Title and Section number of the section or sections to be amended. All such ordinances shall comply with the provisions of this Code and Chapter 9, Title 50, Idaho Code, regarding passage, execution and publication of ordinances. All such amendments shall be promptly forwarded to the codifiers by the City Clerk, and such ordinance shall be promptly published and inserted in its proper place in each copy of this City Code. (Ord. 2963, 6-24-14)

1-1-6: MAINTENANCE OF CITY CODE: Upon receipt of each published ordinance from the codifiers, the City Clerk shall promptly forward a copy of each page thereof to each person having an official copy of the City Code. The City Clerk may collect a fee for each copy of the City Code and an annual fee for maintenance thereof, provided such fees shall be established by resolution or ordinance duly passed by the City Council. (Ord. 2963, 6-24-14)

CHAPTER 2
SAVING CLAUSE

SECTION:

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

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

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

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

CHAPTER 3
DEFINITIONS AND CONSTRUCTIONAL RULES

SECTION:

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

1-3-1: GENERAL CITY CODE RULES OF GENERAL CONSTRUCTION:

- A. All general provisions, terms, phrases, and expressions contained in this Code shall be liberally construed in order to carry out the true intent and meaning of the Code. Code provisions represent the minimum requirements adopted by the Council for the promotion and sustaining of public health, safety, and general welfare. Where any specific provision of this Code imposes greater restrictions upon the subject matter than a general provision imposed by this Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.
- B. WORDS. Except as expressly stated in this Code, all words shall have their ordinary, generally-accepted meaning. Whenever any word in this Code is used in either the singular or in the plural form, then such word shall be deemed to include both the plural and singular forms of such word, unless the context indicates otherwise.
- C. GENDER USAGE: When any person is referred to in any provision of this Code by use of the masculine gender, then such reference shall be deemed to include all genders.
- D. PRIORITY OF ORDINANCES ADOPTED: In the event of a discrepancy or conflict between this Code and any subsequent ordinances amending the same provision of this Code, then the provision of the most recent ordinance shall prevail.
- E. REFERENCES TO DAY, MONTH, QUARTER, YEAR: “Day” shall be any twenty-four (24) hour period from midnight to midnight. “Month” shall mean one (1) of any of the twelve (12) Gregorian calendar months. “Year” shall mean one (1) Gregorian calendar year and shall include a leap year, where applicable. Whenever certain hours are named herein, they shall mean current local time (e.g. Mountain Standard Time or Daylight Saving Time) as it is applied to the Code provision.

- F. **JOB TITLES AND DELEGATION TO SUBORDINATES:** Where the title or job position of an elected official, administrative officer, City employee, or Department Director is used in this Code (e.g., Mayor, Clerk, City Attorney, Public Works Director, Fire Chief, Chief of Police, etc.), such shall include all subordinates, employees, agents, designees, and representatives, who are authorized to act in their behalf. Whenever a Code provision requires a Department Director, the Clerk, or some other City officer to do an act or perform a duty, this Code shall be construed to designate, delegate, and authorize their subordinates to perform the required act or perform the duty, unless a Code provision specifies otherwise.

- G. **LIABILITY AND RESPONSIBILITY OF EMPLOYER OR AGENT:** All violations of this Code shall constitute a misdemeanor, unless specified otherwise. Liability of employers and agents occurs/exists when a provision of this Code prohibits the commission or omission of an act regulated by this Code. Not only the person actually doing the prohibited thing or omitting the directed act, but also the employer and all other persons concerned or aiding or abetting the person shall be guilty of the offense described and shall be liable for the penalty set forth in the Code.

- H. **SEVERABILITY:** Should any title, section, subsection, provision, part, or portion of this Code or of any Ordinance which may be hereafter passed, approved, and published as required by law, be declared by any court of competent jurisdiction to be unconstitutional or void, such adjudication shall in no way affect the remaining portion of such title, section, subsection, provision, part, or portion of this Code.

- I. **CAPTIONS AND HEADINGS:** The captions, headings, and titles used at the commencement of each title, provision, heading, section, or subsection of this Code are used only to indicate general content and shall not limit, modify, or in any manner affect the scope, meaning, or intent of the title, provision, heading, section, or subsection. (Ord. 3332; 9-10-20)

1-3-2: **GENERAL CODE DEFINITIONS:** Whenever the following words or terms are used in this Code, they shall have the meanings ascribed below:

AGENT: A person authorized to act on behalf of another.

AIRPORT: The Idaho Falls Regional Airport (or “IFRA” or the “Airport” and formally known as “Fanning Field” or “Idaho Falls Municipal Airport”).

BUILDING OFFICIAL: The Building Official of the City as designated under the International Building Code adopted by the City.

CITY: The City of Idaho Falls, County of Bonneville, State of Idaho, established pursuant to the Idaho Constitution.

CLERK: The person approved by the Council pursuant to Idaho Code Title 50, Chapter 2.

CODE: “The Code” or “this Code” (sometimes referred to as the Idaho Falls City Code or “IFCC”) shall mean the collected current Ordinances of the City, including, but not limited to, the Zoning Code, Sign Code, Subdivision Code, and City-adopted Uniform or International Codes.

COUNCIL: The lawfully elected or appointed members of City Council of the City pursuant to Idaho Code Title 50, Chapter 7.

CRIME: An act in violation of this Code, unless specified otherwise.

FELONY: A crime, as defined under Idaho Code, Title 18, Chapter 1.

HIGHWAY: A travel way, as defined at Idaho Code Title 49, Chapter 1.

IDAHO CODE: The Idaho Code or State law shall mean the Idaho State Constitution and the Idaho Statutes containing the General Laws of Idaho.

INFRACTION: A civil public offense, not constituting a crime and which is punishable only by a fine for which no incarceration may be imposed.

KNOWINGLY: A person acts “knowingly” when they realize what he or she is doing, is aware of the nature of his or her conduct, and did not act through ignorance, mistake, or accident.

LAND, REAL ESTATE, REAL PROPERTY: Land, and everything which is naturally part of the land or permanently added to or built upon land. This definition also includes intangible legal interests in land, such as tenements, hereditaments, water rights, possessory rights, and other legal claims

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

MISDEMEANOR: Every crime except a felony or infraction.

NEGLECT, NEGLIGENCE, NEGLIGENT, AND NEGLIGENTLY: The failure to exercise reasonable care that would protect others against an unreasonable risk of harm. A person acts “negligently” when he or she should be aware of a substantial and unjustifiably risk that harm will likely result from his or her conduct and a reasonable person would have observed the risk in the actor’s situation.

OATH: An act that obligates a person to publically commit to a norm or duty and includes “affirmation”, “swear”, and “affirm”. Every mode or oral statement under oath

or affirmation is included in the term “testify” and, if written, included in the term “depose”.

OCCUPANT: Any person who is or has the right to be physically present or to the use, in the whole or any part, of a building, property, or land whether alone or with others.

OFFENSE: A crime or other violation of this Code.

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

ORDINANCE: A general health, safety, or welfare regulation applicable within City limits, adopted pursuant to the authority delegated to the City by the Idaho Constitution, Idaho Code, and the City Charter.

OWNER: Any person owning or possessing or acquiring a financial or possessory interest in real or personal property, including any part owner, joint owner, tenant in common, joint tenant, remainderman, or person holding an equitable or a life estate or reversionary interest of any kind. This definition includes part owners, joint owners, tenants in common, point tenants, and lessees of buildings or land, regardless of whether the lease is for the whole or part of such building or land.

PERSON: A human being or group of individuals and any public or private corporation, firm, partnership, trust, estate, sole proprietorship, joint stock company, cooperative, association, organization, government, body corporate and politic, or any other entity recognized under Idaho law.

PERSONAL PROPERTY: Any movable or intangible thing that is subject to ownership and not classified as real property. This definition includes money, goods, chattels, evidences of debt, and general intangibles, as these terms are defined by the Idaho Uniform Commercial Code, Idaho Code Title 28, as amended.

PREMISES: A building and the contiguous land to the building.

PROPERTY: Includes both real and personal property.

RESOLUTION: Council adopted statement of policy or intent but which is not an Ordinance.

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

SIGNATURE: Includes any name, mark, or sign written with the intent to authenticate any instrument of writing.

STANDARD DRAWINGS AND ENGINEERING SPECIFICATIONS: The Standard Drawings and Engineering Specifications as adopted by the Council from time to time by Ordinance or Resolution.

STATE: The State of Idaho.

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

TENANT: A person who pays rent in exchange for a possessory right to use or occupy another's land, typically under a lease or a similar agreement.

THOROUGHFARE: Includes highways, streets, alleys, lanes, courts, boulevards, public ways, public squares, public spaces, and sidewalks.

WILLFULLY: Some definitions of "willfully" are very closely related with definitions of "knowingly." The United States Supreme Court distinguishes between "knowingly" and "willfully" by requiring the government to prove that a defendant acted with a "bad purpose" to establish "willfully." "Willfully" requires that the government prove that the defendant knew his or her conduct was unlawful and that the defendant intended to do something that the law forbids. *Bryan v. United States*, 524 U.S. 184 (1998).

WRITING: Includes, but is not limited to, handwriting, typewriting, printing, photostating, photographing and every means of recording, including letters, words, pictures, sounds or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, or other documents. (Ord. 3332; 9-10-20)

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

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

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

AGENT: A person acting on behalf of another.

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

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

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

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

COUNCIL: The lawfully elected City Council of the City.

CRIME: An act in violation of this Code.

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

INFRACTION: A civil public offense, not constituting a crime, which is punishable only by a fine for which no incarceration may be imposed.

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

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

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

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

MISDEMEANOR: Every crime except a felony.

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

OFFENSE: A crime or other violation of this Code.

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

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

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

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

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

STANDARD DRAWINGS AND SPECIFICATIONS: The Standard Drawings and Specifications, adopted from time to time by Resolution of the Council, a copy of which shall be kept on file with the City Engineer and shall be available to members of the public.

STATE: The State of Idaho.

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

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

UNIFORM CODE FOR ABATEMENT OF DANGEROUS BUILDINGS: The Uniform Code for Abatement of Dangerous Buildings as adopted by ordinance of the City.

UNIFORM PLUMBING CODE: The International Plumbing Code as adopted by Ordinance of the City. (Ord. 2816, 6-25-09; Ord. 2874, 5-26-11; Ord. 3003, 4-23-15; Ord. 3186, 05-24-18; Ord. 3332; 9-10-20)

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

CHAPTER 4 GENERAL PENALTY PROVISIONS

SECTION:

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

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

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

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

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

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

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

CHAPTER 5 MAYOR

SECTION:

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

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

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

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

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

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

1-5-6: ACCOUNTS AND REPORTS OF OFFICERS: The Mayor may require any officer or employee of the City to exhibit all accounts, files or other papers pertaining to such office or employment and to report to the Council in writing regarding any subject or matter pertaining thereto.

1-5-7: EXTRATERRITORIAL POWERS: The Mayor shall have the following extraterritorial powers over all persons, places and activities located outside the corporate boundaries:

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

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

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

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

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

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

1-5-8: COMPENSATION OF MAYOR: In addition to compensation for which a City employee is eligible (health coverage, PERSI contribution, cost of living increases, travel reimbursement, and the like), the Mayor shall receive a bi-weekly salary of three-thousand two hundred thirty dollars and seventy-seven cents (\$3230.77), provided such salary shall be increased upon the following effective dates:

| Effective Date | Amount of Bi-weekly Salary |
|-----------------|----------------------------|
| January 1, 2016 | \$3,230.77 |
| January 1, 2017 | \$3,307.69 |

(Ord. 2310, 2-25-99; Ord. 2704, 6-28-07; Ord. 3015, 8-13-2015)

1-5-9: AID TO ENFORCE LAWS: The Mayor may call on every citizen residing in the City over the age of twenty-one (21) years and under the age of fifty (50) years to aid in enforcing the laws.

1-5-10: (Repealed)

(Ord. 2469, 11-27-02; Ord. 2891, 02-09-12)

1-5-11: RUN-OFF ELECTIONS: A majority of the votes cast for the office of mayor shall be required for election of any candidate to that office. In the event no candidate receives a majority of the votes cast at any general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes cast. In the event of a tie between the candidates receiving the second and third highest number of votes cast, selection of the candidate to oppose the candidate receiving the highest number of votes, shall be decided by the toss of a coin. Such run-off election shall be conducted in the same manner as for a general election and within thirty (30) days of the general election, and shall not be subject to the limitations set forth in Idaho Code Sections 34-106 and 50-429. The first notice of election shall be published by the City Clerk in the official newspaper not less than twenty (20) days next preceding any run-off election, and the designation of polling places shall be made by the City Clerk prior to such publication. The results of such run-off election shall be subject to any change in outcome as a result of a recount of the ballots pursuant to Idaho Code Section 50-471. If as a result of such recount a candidate receives a majority of the votes cast and such recount becomes final at least twenty-four (24) hours prior to the commencement of such run-off election, the run-off election may be canceled by order of the City Council. (Ord. 2592, 3-24-05)

CHAPTER 6 COUNCIL

SECTION:

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

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

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

1-6-3: **OPEN MEETINGS:** All regular and special meetings of the Council shall be open to the public, except the Council may retire into a closed executive session upon a two-thirds roll-call vote recorded in the minutes of the meetings after the presiding officer has identified the statutory authorization for such meeting under the provisions of the Idaho Code. The City Clerk shall record the vote of Council to retire into executive session and the Clerk shall state in the minutes the general purpose for such session. The Clerk or any other person appointed by the Mayor shall keep such minutes as will indicate the general tenor of the meeting, which minutes shall be recorded in the Clerk's journal. No final decision for which an affirmative vote of a majority of the Council is required by law, may be made while the Council is in executive session. For the purposes hereof, the term "meeting" shall mean any convocation of the members of the Council for the purpose of making a decision or deliberating toward a

decision on any matter. Nothing herein shall apply to any convocation of less than a quorum of the members of the Council. (Ord. 2771, 8-14-08; Ord. 3012, 7-9-2015)

1-6-4: OATH; TERM OF OFFICE: The Council members shall take office after ascribing to the oath of office and upon receipt of their certificates of election. Subscription to the oath of office and delivery of the certificates of election shall be done at the first regular Council meeting in January of the year following a general election. Newly elected members shall be sworn into office in the same order as the number of votes cast for each member at the same election, with the member receiving the most votes to be sworn first. Each member shall serve for a term of four (4) years, or until his or her successor is elected and sworn, whichever is longer.

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

| Effective Date | Amount of Bi-weekly Salary |
|-----------------|----------------------------|
| January 1, 2016 | \$480.77 |
| January 1, 2017 | \$500.00 |

(Ord. 2310, 2-25-99; Ord. 3015, 8-13-2015)

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

1-6-7: CONSENT AGENDA: Whenever the Mayor considers an item to be routine and non-controversial, he or she may place the same on the consent agenda for consideration at any regular meeting of the Council, provided, however, any action which may be taken only by ordinance may not be placed on the consent agenda. Items of business on the consent agenda may include, but need not be limited to the following: approval of minutes; approval of citizen appointments; referrals to committees; approval of reports; approval of authorization of communications; approval of resolutions or other items which had been considered by the Council at earlier meetings and setting of public hearings. The consent agenda may be considered by the Council as a single item and may be introduced by a motion to approve the consent agenda. On objection to the inclusion of any item on the consent agenda by any member

of the Council, that item shall be removed from the consent agenda and may be considered at any time in the meeting which the Mayor deems appropriate. Neither a formal motion nor a second is necessary to remove an item from the consent agenda. Such objections shall be recorded prior to taking the vote to approve the consent agenda. There shall be no debate or discussion of any item on a consent agenda beyond asking questions for a simple verification. Passage of the consent agenda shall be fully equivalent to approval, adoption, or enactment of each motion, resolution or other item of business thereon as if each item thereon had been acted upon individually. Approval of the motion must be by a roll call vote. The City Clerk shall record in the Council minutes each item passed under the consent agenda, individually and in full.

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

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

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

DECLARATION OF CANDIDACY

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

(Signed)
Candidate

STATE OF IDAHO)
 : ss.
County of Bonneville)

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

Notary Public for Idaho

Residing

at:

My

commission expires: _____

1-6-11: INCUMBENTS; MULTIPLE DECLARATIONS PROHIBITED: Any person who is a member of the Council at the time his or her Declaration of Candidacy is filed shall seek election only for the council seat for which he or she was previously elected or appointed. A candidate for election may not seek election for more than one seat at any general election.

1-6-12: ELECTIONS AND PETITIONS FOR NOMINATION: All elections shall be non-partisan in nature and shall be conducted in the manner provided in Chapter 4, Title 50, Idaho Code. Candidates for election to the Council shall be nominated by petition in the manner provided by law and in accordance with this Chapter. The number of qualified electors required to sign a petition shall be one (1) per each one hundred (100) population or fraction thereof, but in no event more than forty (40). A qualified elector may sign no more than one nominating petition for any council seat up for election. Any such duplicate signature shall be void for all petitions signed in violation of this section.

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

PETITION OF NOMINATION

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

(Signed)

(Name--printed)

(Address)

(Date)

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

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

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

**CHAPTER 7
APPOINTIVE OFFICERS**

SECTION:

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

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

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

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

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

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

**CHAPTER 8
EMPLOYEE POLICIES AND PROCEDURES**

SECTION:

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

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

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

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

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

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

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

**CHAPTER 9
OATH, BONDS AND OFFICIAL CONDUCT**

SECTION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-9-9: **BRIBERY:** It shall be unlawful for any officer or employee of the City to accept any pecuniary benefit as consideration for the recipient's decision, opinion, recommendation,

vote or other exercise of discretion as a public servant or to accept any benefit as consideration for a violation of a known legal duty as a public servant.

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

1-9-11: **GIFTS TO PUBLIC SERVANTS:**

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

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

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

(D) This section shall not apply to:

- (1) fees prescribed by law to be received by such officer or employee or any other benefit for which the recipient gives legitimate consideration or to which he is otherwise legally entitled;
- (2) gifts or other benefits on account of kinship or other personal, professional or business relationship independent of the official status of the receiver;
- (3) trivial benefits incidental to personal or business contacts and having no substantial risk of undermining official impartiality.

1-9-12: **COMPENSATION FOR ASSISTING PRIVATE INTERESTS:** It shall be unlawful for any officer or employee of the City to solicit accept or agree to accept compensation for advice or other assistance in preparing or promoting a bill, contract, claim or other

transaction or proposal as to which such officer or employee knows that he or she has or is likely to have an official discretion to exercise.

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

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

CHAPTER 10 ORDINANCES

SECTION:

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

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

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

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

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

1-10-5: VETO CERTIFICATE: When any ordinance has been passed over the Mayor's veto, the Clerk shall attach a certificate to the ordinance stating the same was vetoed by the Mayor and that it received the required vote of the Council and the date of such action.

1-10-6: BECOMING LAW WITHOUT MAYOR'S SIGNATURE: If the Mayor refuses or neglects to sign any ordinance and fails to return the same to the Council in accordance with Section 1-10-4 above, it shall become effective without his signature.

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

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

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

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

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

CHAPTER 11 ELECTIONS

SECTION:

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

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

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

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

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

**CHAPTER 12
INITIATIVE, REFERENDUM AND RECALL**

SECTION:

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

1-12-1: **DIRECT LEGISLATION:**

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

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

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

(A) Before beginning to circulate any petition for the referendum to the people of any ordinance passed by the City Council, or for any ordinance proposed by initiative, the person or persons or organization or organizations under whose authority the measure is to be referred or initiated shall send or deliver to the City Clerk an initial petition duly signed by at least twenty (20) qualified electors of the City. A full and correct copy of the ordinance or measure so proposed by initiative petition, or a full and correct copy of the ordinance or measure on which the referendum is demanded, as the case may be, shall be attached to such initial petition. An electronic or digital copy of the proposed ordinance or measure, in Word, WordPerfect or ASCII format, using such storage media as may be determined by the City Clerk,

shall also accompany the filing. Ordinances proposed by initiative shall contain a blank line for the ordinance number and a descriptive title at the top of the page, an ordaining clause as required by Section 50-901, Idaho Code, separately numbered sections with descriptive section titles, signature lines for the Mayor and City Clerk, and shall generally conform to the ordinance style determined by the City Clerk. The City Clerk shall, upon request, provide to the petitioners a sample copy of an ordinance conforming to such style. Upon request, the City Clerk shall also provide to such persons one photocopy or digital copy of any ordinance or Chapter in the City Code which is proposed to be subject to referendum.

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

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

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

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

(A) After receiving a copy of the petition from the City Clerk, the City Attorney may confer with the petitioner and shall, within twenty (20) business days from receipt thereof, review the proposal for matters of substantive import and shall recommend to the petitioner such revisions or alterations of the measure as may be deemed necessary and appropriate. The recommendations of the City Attorney shall be advisory only and the petitioner may accept or reject them in whole or in part. The City Attorney shall issue and file a certificate of review with the City Clerk certifying that he has reviewed the measure for form and style and that the recommendations thereon, if any, have been delivered to the petitioner. Such certificate shall be issued whether or not the petitioner accepts the City Attorney's recommendations. The certificate of review shall be available for public inspection in the office of the City Clerk. Within fifteen (15) business days after the filing of the certificate of review, the petitioner, if he or she desires to proceed with sponsorship of the petition, shall file the measure with the City Clerk who shall assign a number to the measure and shall forthwith submit to the City Attorney two (2) copies of the measure filed. Within five (5) business days after receiving such copies, the

City Attorney shall provide a ballot title therefor and return one of said copies to the City Clerk, together with the ballot title so prepared by him. A copy of the ballot title as prepared by the City Attorney shall be furnished by the City Clerk with his or her approved form of any initiative or referendum petition, as provided herein, to the person or persons or organization or organizations under whose authority the measure is initiated or referred. The approved ballot title shall be used and printed on each petition or copy thereof when in circulation; the short title shall be printed in type not less than twenty (20) points on the covers of all such petitions circulated for signatures. The ballot title shall contain (1) a distinctive short title not exceeding twenty (20) words by which the measure is commonly referred to or spoken of and which shall be printed in the foot margin of each signature sheet of the petition, and (2) a statement title expressing in not more than two hundred (200) words the purpose of the measure. In drafting such ballot title the City Attorney shall provide a true and impartial statement of the purpose of the measure. The ballot title shall be included as part of the measure when it is printed on the official ballot for any election to consider an initiative or referendum measure.

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

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

1-12-4: CIRCULATION OF FINAL PETITIONS:

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

(B) All petitions for the initiative and for the referendum and copies circulated for signatures shall be printed on good quality bond or ledger paper in the form and manner as

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

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

Initiative Petition No. _____

WARNING

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

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

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

| No. Date | Printed Name | Street | Address/City | Zip | Signature |
|-------------|--------------|--------|--------------|-------|-----------|
| 1 | _____ | _____ | _____ | _____ | _____ |
| 2 | _____ | _____ | _____ | _____ | _____ |
| 3 | _____ | _____ | _____ | _____ | _____ |
| 4 | _____ | _____ | _____ | _____ | _____ |
| 5 | _____ | _____ | _____ | _____ | _____ |
| 6 | _____ | _____ | _____ | _____ | _____ |
| 7 | _____ | _____ | _____ | _____ | _____ |

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26 _____

State of Idaho)
 : ss.
County of Bonneville)

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

(Signature)
(Street address)

Subscribed and sworn to before me this ____ day of _____, 20____.

(Notary Seal) _____
Notary Public
State of Idaho
Residing at: _____

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

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

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

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

(A) Each copy of an initiative or referendum petition with signatures thereon, accompanied by the proposed or referred ordinance physically attached to each such copy, shall be filed with the City Clerk, along with a statement by the petitioner or petitioners requesting the filing of the petition and further requesting a special election be held on the measure attached to the petition. Such filing shall be made within one hundred eighty (180) days after the date of the City Clerk's final approval in accordance with § 1-12-3 of this Chapter. Multiple filings of the same petition or copies thereof shall not be permitted and any petition or copy thereof or signature sheet filed after the first filing of a final measure shall be void, provided however

nothing herein shall be construed to prohibit the filing of additional signature sheets in accordance with subsection (C) of this section.

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

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

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

(E) If the City Clerk shall refuse to accept, file or certify any petition for the initiative or for the referendum in proper form and with the requisite number of signatures of qualified electors thereto attached, or to order a special election as required under this Chapter, any citizen may apply, within ten (10) business days after such refusal, to the District Court for a writ of mandamus to compel the City Clerk to do so. Alternatively, if the City Clerk shall improvidently accept, file or certify any petition for the initiative or for the referendum, or improvidently order a special election, any citizen may similarly apply, within ten (10) business days after such acceptance, filing or certification, to the District Court for a writ of prohibition to prohibit such action. If the District Court grants the writ of mandamus, the City Clerk shall then file the writ in his or her office, with a certified copy of the judgment or writ attached thereto, as of the date on which it was originally offered for filing in his office and shall proceed as directed

by such writ. On a determination that a writ of prohibition should be granted, the court may enjoin the City Clerk and any other elected or appointed officer from certifying or printing on the official ballot for the ensuing election the initiative or referendum measure which was the subject of such writ. All such suits shall be advanced on the court docket and heard and decided by the court as quickly as possible. (Ord. 2854, 12-16-10)

1-12-6: REMOVAL OF SIGNATURES:

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

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

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

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

1-12-9: SUBMISSION TO POPULAR VOTE:

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

(B) Unless, the Council shall, within twenty (20) days after the date of the Clerk's certificate and Order issued under Section 1-12-5 (D) hereto, repeal a referred ordinance, a special election shall be held on the next available date permitted under Section 34-106, Idaho

Code for the purpose of submitting such ordinance to the electorate. If a majority of the voters voting on the measure vote in favor of such repeal, the ordinance shall thereupon become null and void. (Ord. 2854, 12-16-10)

1-12-10: PROHIBITED ACTIONS; PENALTIES:

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

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

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

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

(E) It shall be unlawful for any person who has undertaken to circulate an approved petition to leave unattended any petition or copy thereof authorized under this Chapter for the purpose of gathering signatures in such person's absence.

(F) It shall be unlawful for any person submitting an application for an initial petition under Section 1-12-2 of this Chapter to refuse to allow any person to remove his or her name from a signed copy of a final petition, in the manner allowed under Section 1-12-6 hereof.

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

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

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

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

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

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

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

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

1-12-14: PUBLICATION: The Clerk shall publish every proposed initiative or referred ordinance at least twice in the official newspaper of this City before the date of the election at which such proposition or ordinance is to be voted upon. All special elections held pursuant to this chapter shall be conducted, the votes canvassed and the result declared, in the same manner as provided by law in respect to other City elections. (Ord. 2854, 12-16-10)

1-12-15: INCONSISTENT MEASURES: Nothing herein shall prevent two or more initiative measures concerning the same subject matter from being voted upon at the same election, provided however, if both initiative measures are approved and are inconsistent in any respect, the measure receiving the highest number of votes shall prevail, and the other shall entirely fail to become law. (Ord. 2854, 12-16-10)

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

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

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

**CHAPTER 13
CITY FINANCES**

SECTION:

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

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

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

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

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

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

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

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

(G) Payment of such claims shall in all other respects conform to the provisions of Idaho Code Section 67-2302.

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

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

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

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

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

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

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

1-13-9: DEPOSIT OF PUBLIC FUNDS BY TREASURER: Except where public moneys in the custody of the Treasurer at any one time are less than \$1,000, the Treasurer shall deposit, and at all times keep on deposit, in such designated depositories, all public moneys coming into his hands. In no case shall the deposit or deposits of public funds of the City in such depositories exceed at any one time in the aggregate the total of the capital and surplus or reserves and unallocated or undivided earnings, as applicable of any such depository.

1-13-10: CERTIFICATION OF DEPOSITORIES BY COUNCIL: Not less than once every six (6) months the City Council shall certify to the Treasurer the capital and surplus or reserves and unallocated or undivided earnings, as applicable, of each public depository into which public moneys have been deposited. Such certificates shall be immediately served on the Treasurer following their approval by the City Council.

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

1-13-12: COMPLIANCE WITH STATE LAW: The deposit and investment of all public moneys of the City shall conform in all respects to the Idaho Public Depository Law, as set forth in Chapter 1, Title 57, Idaho Code.

CHAPTER 14
PUBLIC RECORDS
[Repealed]

CHAPTER 15
ADMINISTRATIVE PROVISIONS

SECTION:

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

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

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

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

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

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

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

(B) **Horizontal Datum Point:** A brass cap set in a concrete monument located S 300 35' 08" W 688.88 feet from the northeast corner of Section 18, T. 2 N., R. 38 E.B.M., said point lying along the railroad tracks 620 feet more or less southwest of the intersection of Anderson St. and Holmes Ave. Said point is stamped "IDAHO FALLS S.W. BASE 1946 of the U.S. Coast and Geodetic Survey." The Idaho State Plane Coordinates (sea level) of said point are N 671757.270 and E 537808.840.

1-15-6: **OFFICIAL CITY MAP:** A map of the City, kept current by the Director of the Community Development Services Department and drawn to a scale of one inch to five hundred feet (1" to 500'), shall, at all times, be kept on file in the Community Development Services Department, which map shall be known as the Official Map of the City. The boundaries of the City as shown on said map shall constitute the official city limits of the City. Such map shall be deemed to be a part of this Code as fully as if set forth herein. (Ord. 3003, 4-23-15)

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

**CHAPTER 16
ECONOMIC DEVELOPMENT INCENTIVE PROGRAM**

SECTION:

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

1-16-1: **PURPOSE:**

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

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

1-16-2: **ELIGIBILITY REQUIREMENTS AND CRITERIA:**

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

- (1) Any request for incentives shall be initiated at least sixty days prior to applying for a building permit for construction of the proposed project.
- (2) The applicant must create one hundred or more new full-time equivalent positions working at a business located within the City. For the purposes of this section, "full-time employee" means an employee who is expected in normal course of employment to provide at least two thousand eighty (2,080) hours of compensated

hours during any consecutive twelve month period. "Full-time equivalent" is any combination of seasonal or part-time employees whose compensated hours during a consecutive twelve month period equals two thousand eighty (2,080) hours.

- (3) The average hourly wage paid to employees shall be at least twice the federal minimum wage or \$15 per hour, whichever is greater.
- (4) The firm seeking assistance shall provide medical, dental and vacation benefits to full-time employees.
- (5) The applicant shall provide new capital investment equal to or in excess of \$5.0 million if the applicant will establish a new business in the City and equal to or in excess of \$2.0 million if the applicant will expand a business in the City or use a building which has been vacant for at least two years. For purposes of this section, "capital improvements" means property improvements that will enhance the assessed valuation of the land and buildings on the property.
- (6) Any waivers provided under Section 1-16-3(B) shall not exceed \$5,000 per full-time equivalent employee.
- (7) Any waivers provided under Section 1-16-3(B) or other assistance provided by the City shall not exceed the amount of estimated City taxes to be levied on the capital improvements within the seven (7) calendar years after receipt of the Certificate of Occupation.
- (8) Any waivers provided under Section 1-16-3(B) or other assistance provided by the City shall not exceed five (5) percent of the estimated assessed valuation of the land and buildings at the time of issuance of the Certificate of Occupancy.

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

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

1-16-3: AVAILABLE INCENTIVES: The City offers a variety of incentives and assistance options for qualifying businesses. The specific type of incentive or assistance will depend upon the needs of the business as well as the benefits created by the proposed business. Incentives available for qualifying businesses are:

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

(B) Waiver of Fees. The City may waive all or part of the following fees associated with the establishment of a new businesses: road and bridge fees, storm drainage fees, land use application and plan review fees, and building permit fees. Such fees shall not be waived with respect to any fee for which the services of an outside consultant are necessary to review the application or construction documents or for any other purpose necessary to facilitate the issuance of the associated permit.

1-16-4: APPLICATION PROCEDURES: Any person, organization, joint venture, partnership, association, or corporation desiring that the City consider providing economic development incentives shall submit an application containing, as a minimum, the following information:

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

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

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

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

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

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

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

1-16-5: EVALUATION:

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

- (1) Revenue benefit to the City.
- (2) Number and quality of jobs created.
- (3) Strength of public benefit to the City.

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

(B) City staff will provide a written recommendation of full, partial or no incentive to the City Council based upon review of the application and the criteria set forth in this Chapter.

(C) The City Council may adopt the recommendation of City staff or otherwise approve economic development incentives based upon its review of the application and the criteria set forth in this Chapter.

1-16-6: INCENTIVE AGREEMENT:

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

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

- (1) A description of each of the types of incentives to be provided.
- (2) The commencement date of the incentives and the duration of the incentives.
- (3) A legal description of the property indicating its location.
- (4) Detailed information regarding the type, number, location and cost of planned improvements.
- (5) A method by which the business receiving incentives will certify in writing to the City that the business is in compliance with the incentive agreement and provide the City with documentation to substantiate the level of value, including but not necessarily limited to, annual company financial reports, state and/or federal employment reports, and Bonneville County tax appraisal statements.

- (6) A method for the City to recover all waived fees and costs which are lost as a result of the agreement if the applicant(s) fail(s) to perform its obligations under the agreement.
- (7) A provision requiring the applicant to keep good and accurate financial records sufficient to demonstrate applicant's performance of the terms and conditions of the agreement and a provision allowing the City to inspect such records upon reasonable advance notice during normal business hours. Such provision shall also require the applicant to provide copies of such records to the City at the applicant's expense, upon written request of the City.
- (8) Such other provisions as the City Council shall deem appropriate.

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

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

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

1-16-7: DISCONTINUANCE OF INCENTIVES: Changing economic conditions and availability of funds may cause the City Council to modify, amend, or discontinue the economic development incentive program at any time. Should the incentives program be discontinued, the City Council will honor any incentive agreement to which it committed before the discontinuance of the incentive program.