City of Rexburg

Municipal Code

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REXBURG MUNICIPAL CODE

2007

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DRAFT

PREFACE

Most cities have a comprehensive legal code. The legal code for a city is a living document whose sections may be added to, amended and or repealed based on local laws. For Rexburg the project to codify has been a significant challenge. In 1976 the Teton Dam collapsed, flooding Rexburg and many other surrounding cities. The flood left thousands of lives, homes, and businesses in disaster. In addition to this wreckage the city's ledger books were damaged, leaving some beyond repair.

Since 1976 the city has appointed help in compiling codifications that have unfortunately been incomplete. The flood has ultimately made the efforts to codify difficult. However, with the help of Brigham Young University – Idaho and its students these efforts have continued and progress is being made in remarkable strides.

The following is a compilation of significant city ordinances from 1883, when Rexburg was incorporated by the State of Idaho, to present. Please note that amendments, additions, and/or deletions will be a constant. Therefore, each subsequent version of the code will vary from its previous. This version of the code was created **August 10th, 2007** to provide citizens and city officials the most efficient and complete access to the city's laws and ordinances to date.

This version of the Rexburg Municipal Code reviews Ordinances 1 through 991.

Published by City of Rexburg August 10th, 2007

TITLE 1 GENERAL PROVISIONS

Title 1 sets forth the provisions applicable to the City generally and to all sections of the Code.

CHAPTER 1.01 CODE ADOPTION*

*Note to Chapter 1.01: For statutory provisions continuing in force all ordinances passed by a city under its former organization, until altered or repealed by the mayor and council, see Idaho Code §50--201.

1.01.010 Definitions and interpretation of terms

The following words and phrases, whenever used in the ordinances of the city of Rexburg, Idaho, shall be construed as defined in this section unless from the context a different meaning is intended or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1) City/town: means the city of Rexburg, Idaho, or the area within the territorial limits of the city of Rexburg, Idaho, and such territory outside of the city over which the city has jurisdiction or control by virtue of any constitutional or statutory provision.

2) Computation of time: means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is a Sunday or a legal holiday, that day shall be excluded.

3) Council: means the city council of the city of Rexburg, Idaho. "All its members" or "all councilmen" mean the total number of councilmen provided by the general laws of the state of Idaho.

4) County: means the county of Madison, Idaho.

5) Law: denotes applicable federal law, the Constitution and statutes of the state of Idaho, the ordinances of the city of Rexburg, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

6) May: is permissive.

7) Month: means a calendar month.

8) Must: and "shall." Each is mandatory.

9) Oath: shall be construed to include an affirmation or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

10) Ordinance: means a law of the city, provided that a temporary or special law, administrative action, order or directive may be in the form of a resolution.

11) Owner: applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land.

12) Person: means natural person, joint venture, Joint Stock Company, partnership, association, club, company, corporation, business, trust or organization, or the manager, lessee, agent, servant, officer or employee of any of them.

13) Personal property: includes money, goods, chattels, things in action and evidences of debt.

14) Preceding and following: mean next before and next after, respectively.

15) Property: includes real and personal property.

16) Real property: includes lands, tenements and hereditaments.

17) Sidewalk: means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians.

18) State: means the state of Idaho.

19) Street: includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

20) Tenant and occupant: applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

21) Title of Office. Use of the title of any officer, employee, department, board or commission means that officer, employee, department, board or commission of the city.

22) Written: includes printed, typewritten, mimeographed or multigraphed.

23) Year: means a calendar year.

All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

When an act is required by an ordinance, the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent. (Ord. 562 §1, 1975).

1.01.020 Grammatical interpretation of terms

The following grammatical rules shall apply in the ordinances of the city:

1) Gender. Designation in the form of any gender includes the masculine, feminine and neuter genders;

2) Singular and Plural. The singular number includes the plural and the plural includes the singular;

3) Tenses. Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable;

4) Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the context and approved usage of the language. (Ord. 562 §2, 1975).

1.01.030 Prohibited acts include causing, permitting or concealing

Whenever in the ordinances of the city any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Ord. 562 §3, 1975).

1.01.040 Construction

The provisions of the ordinances of the city, and all proceedings under them, are to be construed with a view to affect their objects and to promote justice. (Ord. 562 §4, 1975).

1.01.050 Repeal shall not revive any ordinances

The repeal of an ordinance shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby. (Ord. 562 §5, 1975).

1.01.060 Code not to affect prior offenses, rights, etc.

1) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.

2) The adoption of this Code shall not be interpreted as authorizing any use or continuance of any use of a structure or premises in violation of any ordinance of the City in effect on the date of adoption of this Code, except as otherwise provided.

CHAPTER 1.02 PENALTY

1.02.010 Violations and penalty – Municipal infractions

1) Unless otherwise provided by resolution of the Mayor and Council, the fine to be imposed for a municipal infraction shall be the maximum allowed by State law for a municipal infraction. Unless otherwise provided, each day a violation continues shall constitute a separate and repeat violation.

2) The imposition of a municipal infraction does not prevent license revocation or the imposition of administrative sanctions.

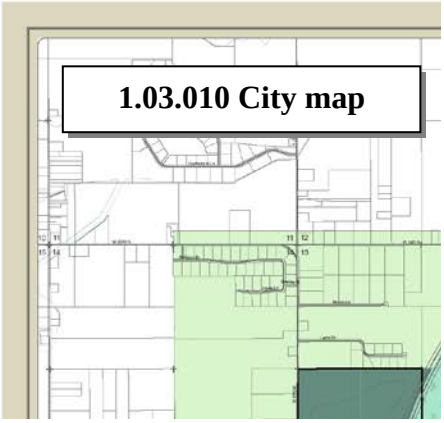
1.02.020 Violations and penalty – Misdemeanors

Except as otherwise provided by ordinance of the Mayor and Council, any person found guilty of violating any provision of this Code shall be guilty of a misdemeanor and shall be subject to a fine not exceeding three hundred ($300), or by imprisonment in a county jail not exceeding six (6) months, or by both. Each day a violation continues shall constitute a separate offense. In addition to any other punishment prescribed for misdemeanors in specific statutes of the Idaho Code, the court may also impose a fine of up to three hundred dollars ($300). This paragraph shall not apply if the specific misdemeanor statute provides for the imposition of a fine. The imposition of a penalty pursuant to this section does not prevent license revocation or the imposition of administrative sanctions.

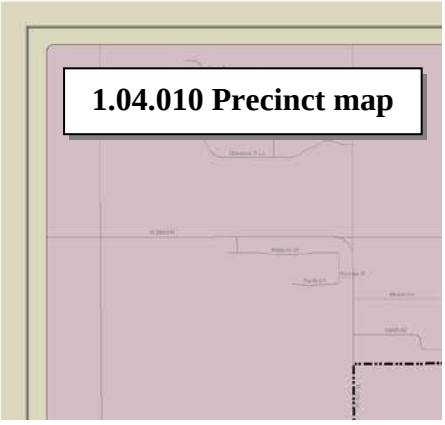
1.02.030 Severability

It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word, clause, sentence, paragraph or section of the Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this Code, because the same would have been enacted by the Council without the incorporation of this Code of any such unconstitutional or invalid word, clause, sentence, paragraph or section.

CHAPTER 1.03 CITY LIMITS



CHAPTER 1.04 ELECTIONS



1.04.020 Election precincts

The City of Rexburg shall be divided into Twelve (12) precincts which shall each and respectively comprise that portion of the City set forth as follows:

1) **Third Precinct:** shall comprise and include all of that part of the City described as follows:

    a. North of West Main Street and West of U.S. Hwy 20; See attached Precinct map dated November 04, 2003.

2) **Fifth Precinct:** shall comprise and include all of that part of the City of Rexburg described as follows:

    a. North of Main Street and west of Center Street; Also those areas that are part of the City of Rexburg north of the Eastern Idaho Rail Road tracks and west of Second East; See attached Precinct map dated November 04, 2003.

3) **Seventh Precinct:** shall comprise and include all of that part of the City described as follows:

    a. Those areas south of the Eastern Idaho Rail Road and North of Main Street following an easterly direction to North 4th East then to Reed Street then to Morgan Drive then north on Millhollow Road to East 1st North then east on North Hill Road to Barney Dairy Road. Also, those areas that are part of the City east of 2nd East and north of Eastern Idaho Rail Road; See attached Precinct map dated November 04, 2003.

4) **Eighth Precinct:** shall comprise and include all of that part of the City described as follows:

    a. The area that is located south of Main Street, east of 12th West, north of 7th South and the South Yellowstone Hwy, and west of South 5th West; See attached Precinct map dated November 04, 2003.

5) **Ninth Precinct:** shall comprise and include all of that part of the City described as follows:

    a. The area south of Main Street, east of South 5th West, north of West 4th South and west of South 2nd West; See attached Precinct map dated November 04, 2003.

6) **Tenth Precinct:** shall comprise and include all of that part of the City described as follows:

    a. The area south of West 4th South, east of the South Yellowstone Hwy, north of West 7th South, and west of South 2nd West; See attached Precinct map dated November 04, 2003.

7) **Eleventh Precinct:** shall comprise and include all of that part of the City described as follows:

a. The area south of Main Street, East of South 2nd west, north of West 2nd South, and west of South Center Street; See attached Precinct map dated November 04, 2003.

8) **Twelfth Precinct:** shall comprise and include all of that part of the City described as follows:

a. The area south of West 2nd South, east of South 2nd West, north of West 4th South, and west of South 1st West; See attached Precinct map dated November 04, 2003.

9) **Thirteenth Precinct:** shall comprise and include all of that part of the City described as follows:

a. The area south of West 4th South, West Viking Street, and East Viking Street; East of South 2nd West, north of East and West 7th South, and west of South 2nd East; See attached Precinct map dated November 04, 2003.

10) **Fourteenth Precinct:** shall comprise and include all of that part of the City described as follows:

a. The area south of Main Street between South Center Street and South 2nd East, then the area south of 2nd South between South 1st West and South 2nd East going south to West and East Viking Street. See attached Precinct map dated November 04, 2003.

11) **Fifteenth Precinct:** shall comprise and include all of that part of the City described as follows:

a. The area south of 7th South; also those parts of the City that are south of East 5th South, and Terra Vista Drive; also, the area south of Rolling Hills Drive between Shoshone Avenue and South Millhollow Road; See attached Precinct map dated November 04, 2003.

12) **Sixteenth Precinct:** shall comprise and include all of that part of the City described as follows:

a. The area east of 2nd East between East Main Street and East 5th South going in an easterly direction on East 5th South to South 4th East; then north to TerraVista Drive going east to Shoshone Avenue; then north and east on Rolling Hills Drive to South Millhollow Road; then south on South Millhollow Road to the City Limits. The north boundary goes east on East Main Street to North 4th East, then to Reed Street, then to Morgan Drive, then north on Millhollow Road to East 1st North, then east on North Hill Road to the City Limits on Barney Dairy Road. See attached Precinct map dated November 04, 2003. (Ord. 905, §2, 2003)

1.04.030 Election poll hours

The polls for all general and special city elections shall be opened from 8:00 A.M., and remain open until all registered electors of that precinct have voted or until 8:00 P.M., whichever comes first. (Ord. 773 §1, 1995).

CHAPTER 1.05 INITIATIVE AND REFERENDUM*

*Note to Chapter 1.05: For provisions regarding the requirements for initiative and/or referendum guidelines, see Idaho Code §34-18.

1.05.010 Submissions

Initiative and referendum petitions with the requisite number of signatures attached shall be filed with the secretary of state in accordance to their respective gathering and filing times. (Idaho Code §§34-1802 and 34-1803).

CHAPTER 1.06 CITY SEAL*

*Note to Chapter 1.06: For further detail on powers and duties of the city clerk see §2.03.080 of this code.

1.06.010 Use of City Seal

The city clerk shall be the keeper of the common seal of the city and shall affix it to all instruments or official documents as may be required and authorized pursuant to law. (Ord. 58 §2(part), 1903).

1.06.020 Previous City Seal

1.06.030 Redesigned City Seal and Logotype

CITY OF
REXBURG
America's Family Community

CHAPTER 1.07 OFFICIAL NEWSPAPER*

*Note to Chapter 1.07: For statutory provisions regarding the designation of an official newspaper, see Idaho Code §50-213. For provisions concerning the qualifications of such a newspaper, see Idaho Code §60-106.

1.07.010 Official newspapers designated

The Rexburg Standard-Journal Newspapers, printed and published in the city, are designated the official newspapers of the city and such ordinances, notices and publications as are required by law to be published in a newspaper shall be published in the Rexburg Standard-Journal Newspapers. (Ord. 472 §1, 1968).

CHAPTER 1.08 CEMETERY

1.08.010 Administration

Managed through own county or taxing district.

CHAPTER 1.09 LIBRARY

1.09.010 Administration

Managed through own county or taxing district.

CHAPTER 1.10 DEPOSITORIES*

*Note to Chapter 1.10: For provisions regarding the requirements for official depositories, see Idaho Code Ch. §57-1.

1.10.010 Depositories designated

The council shall designate one or more financial institutions as a depository or depositories for the moneys required to be kept by the treasurer. The designated depository is any national bank, state bank, trust company, federal savings and loan association, state savings and loan association, or federal credit union.

CHAPTER 1.11 RIGHT OF ENTRY FOR INSPECTION

1.11.010 Inspection authorization – Procedures required

Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all

reasonable times to inspect the same or to perform any duty imposed upon him by ordinance; provided, that except in emergency situations or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he shall give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hours' written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in the event such entry is refused, inspection may be made only upon issuance of search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Ord. 563 §1, 1975).

TITLE 2 ADMINISTRATION

Title 2 sets forth the creation, procedures, functions, powers and duties of the various administrative positions of the City government.

CHAPTER 2.01 MAYOR*

*Note to Chapter 2.01: For Statutory provisions concerning the composition and powers of the mayor, see Idaho Code 50-6.

2.01.010 Office of Mayor

The mayor, except as provided in Idaho Code, sections 50-801 through 50-812, shall be the chief administrative official of the city, preside over the meetings of the city council and determine the order of business subject to such rules as the council may prescribe, have a vote only when the council is equally divided, have the superintending control of all the officers and affairs of the city, preserve order, and take care that the ordinances of the city and provisions of this act are complied with and enforced (Idaho Code §50-602).

The Mayor shall be the Supervising Executive and Administrative Officer of the City government, shall enforce the laws of the City and require the faithful performance of all administrative duties.

2.01.020 Qualifications to hold the office of Mayor

Any person shall be eligible to hold the office of mayor who is a qualified elector of the city at the time his declaration of candidacy or declaration of intent is submitted to the city clerk and remains a qualified elector during his term of office (Idaho Code §50-601).

2.01.030 Term of office

The term of office of mayor shall be for a period of four (4) years except as otherwise specifically provided. He shall take office at the time and in the manner provided for installation of councilmen (Idaho Code §50-601).

2.01.040 Vacancy in the office of Mayor

In case of a temporary vacancy in the office of mayor due to absence or disability, the president of the council shall exercise the office of mayor during such disability or temporary absence, and until the mayor shall return. When a vacancy occurs in the office of mayor by reason of death, resignation or permanent disability, the city council shall fill the vacancy from within or without the council as may be deemed in the best interests of the city, which appointee shall serve until the next general city election, at which election a mayor shall be elected for the full four (4) year term. (Idaho Code §50-608).

2.01.050 Duties of Mayor

1) Appointment and dismissal. Appoint competent, qualified officers and employees to the administrative service, and shall have the power to dismiss, suspend and discipline, in accordance with the Personnel Handbook, all officers and employees in the administrative service under his control. He also shall have the power to authorize a department head or officer responsible to him to appoint and remove subordinates serving under that department head or officer.

2) Appointment to acting capacity. Designate himself or some other officer or employee to perform the duties of any office or position in the administrative service under his control which is vacant or which lacks administration due to the absence or disability of the incumbent.

3) Annual report. Prepare and present to the Council an annual report of the City's affairs, including a summary of reports of department heads, and such other reports as the Council shall require.

4) Budget report. In collaboration with the Director of Finance, the Mayor shall assemble estimates of the financial needs and resources of the City for each ensuing year, and shall prepare a program of activities within the financial power of the City, embodying in it a budget document with proper supporting schedules and analyses.

2.01.060 Powers of Mayor

1) Assignment of employees. Have the power to assign any employee of the City to any department or branch thereof requiring services appropriate of the employee so assigned.

2) Prescribe rules. Have the power to prescribe such rules and regulations as he shall deem necessary or expedient for the conduct of administrative agencies subject to his authority, and he shall have the power to revoke, suspend, or amend any rule or regulation of the administrative service by whomever prescribed.

3) Investigate. Have the power, either by himself or by any officer or person designated for the purpose by him, to investigate and to examine or inquire into the affairs or operation of any department, division, bureau, or office; and when so authorized by the Council, he shall have power to employ consultants and professional counsel to aid in such investigations, examinations, or inquiries.

4) Overrule officials. Have the power to set aside any action taken by a department head and may supersede him in the functions of his office.

5) Delegate duties. Have the power to direct any department, division or bureau to perform the work for any other department, division or bureau.

6) Coordinate departments. Be responsible for the coordination of the administrative heads of each department of City government and for the review and analysis of the operation and administration of all departments, boards and commissions established by the administrative ordinance.

7) Accounts and Reports. Have the power to require all appointed administrative officers and administrative employees of the City to furnish any information connected with or related to their official or assigned duties. Annually, at the request of the Chief Executive, all heads of departments, boards and commissions shall provide the Chief Executive with a comprehensive report analyzing the conditions and operations of the department, shall recommend measure, and shall project need for the ensuing fiscal year. The mayor shall have the power, when he deems it necessary, to require any officer of the city to exhibit his accounts or other papers, and to make written reports pertaining to his office to the council.

2.01.070 Police powers of the Mayor

The mayor shall have such jurisdiction as may be vested in him by ordinance over all places within five (5) miles of the corporate limits of the city, for the enforcement of any health or quarantine ordinance and regulation thereof, and shall have jurisdiction in all matters vested in him by ordinance, except taxation, within one (1) mile of the corporate limits of said city and over such properties as may be owned by the city without the corporate limits. (Idaho Code §50-606).

The mayor is authorized to call on every resident in the city over twenty-one (21) years of age to aid in enforcing the laws. (Idaho Code §50-609).

2.01.080 Special meetings of Council, calling

The mayor shall have the power to call special meetings of the city council, the object of which shall be submitted to the council in writing; the call and object, as well as the disposition thereof, shall be entered upon the journal by the clerk. (Idaho Code §50-604).

2.01.090 Messages to the Council

The mayor shall, from time to time, communicate to the city council such information and recommend such measures as, in his opinion, may tend to the improvement of the finances, the protection, the health, the security, the ornament, the comfort, and the general welfare and prosperity of the city. (Idaho Code §50-603).

2.01.100 Mayor Salary

The salary of the Mayor shall be $55,512 per year commencing January 01, 2006, and shall be paid monthly. (Ord. 940, §1, 2005).

CHAPTER 2.02 CITY COUNCIL*

*Note to Chapter 2.02: For Statutory provisions concerning the composition and powers of the City Council, see Idaho Code 50-7.

2.02.010 Regular meetings – Time and place

The Council shall hold regular meetings the first and third Wednesday of the month at 7:30 p.m. at City Hall at 12 North Center Street. The City Clerk shall provide forty-eight (48) hour agenda

notice prior to each meeting, however, additional agenda items may be added to the agenda by the Mayor and City Council up to an including the hour of the meeting, provided a good faith effort is made to include in the notice all agenda items known at the time to be probable items of discussion. Meeting and agenda notices shall be posted on the bulletin board at City Hall and on www.rexburg.org. The regular meeting schedule may be altered, and meetings may be added to the regular schedule by an action of the Council. (Resolution No. 2005-06 §1C)

A quorum of the actual membership, excluding vacancies, shall be necessary to conduct business and take official action. A majority of the actual membership physically present shall constitute a quorum. The Mayor shall not be counted in determining a quorum. (Resolution No. 2005-06 §1B)

All meetings of the City Council except as provided in Resolution No. 2005-06 §1E, shall be open to the public in compliance with Idaho Open Meeting Law Act (Idaho Code 67-2340 through 67-2347).

2.02.020 Special meetings – Procedure

A special meeting of the Council may be called at any time by the Mayor or a majority of the members of the full Council. Meeting and agenda notice shall be made at least twenty-four (24) hours prior to any special meeting, unless an emergency exists. In the event of an unexpected circumstance that requires immediate attention of the Council, the Mayor may call an emergency meeting of the Council. Only those items relative to the emergency and requiring immediate attention may be considered at an emergency meeting. If an emergency meeting is called, all reasonable efforts shall be made to notify the public. (Resolution No. 2005-06 §1D)

2.02.030 Executive session

Executive session shall mean any meeting or part of a meeting of the City Council which is closed to any persons for deliberation on any of the below listed matters. Upon a two-thirds (2/3) roll call vote of the full Council, the Council shall meet in executive session, after the presiding officer has identified the specific authorized purpose for the executive session, as listed below. No executive session may be held for the purpose of taking any final action or making any final decision.

1) To consider hiring a public officer, employee, staff member or individual agent, but not appointment to a vacancy in an elective office;

2) To consider the evaluation, dismissal, disciplining or hearing complaints or charges against a public officer, employee, staff member or agent;

3) To conduct deliberations concerning labor negotiations, or to acquire an interest in real property which is not owned by a public agency;

4) To consider records that are exempt by law from public inspection;

5) To consider preliminary negotiations involving matters of trade or commerce in which the City Council is in competition with governing bodies in other states or nations;

6) To consider and advise legal representatives in pending litigation or where there is a general public awareness of probable litigation;

7) To conduct labor negotiations if either side requests closed meetings. (Resolution No. 2005-06 §1A)

2.02.040 Agenda

An item may be placed on the agenda only by the Mayor or a member of the City Council. To be included on the agenda, an item must be received by the City Clerk two (2) working days in advance of the subject meeting. A consent calendar may be used for common and non-controversial items. An item on the agenda may be discussed without preceding motion. Any citizen or group wishing to address the Council may be placed on the agenda by the Mayor or a member of the City Council. The Mayor may provide for a public comment period on any agenda. (Resolution No. 2005-06 §2A)

2.02.050 Minutes

The City Clerk shall take full and accurate minutes of all Council proceedings. Minutes shall contain the roll call of the Council; all motions by verbatim, resolutions, orders, or ordinances proposed; the Council Members moving and seconding each question; the disposition of each question; and the results of all votes. Minutes shall include the motion and roll call vote to convene an executive session, and the specific authorized purpose for the executive session, as listed in Section 1, Subsection E of this Resolution. Minutes shall be available for public inspection during normal office hours within a reasonable time after each meeting. (Resolution No. 2005-06 §2B).

2.02.060 Presiding officer

The Mayor shall preside at all meetings of the City Council, and control the order of the agenda. In the absence of the Mayor, the Council President shall preside. When any member is about to speak in debate or deliver any matter to the Council, he/she shall respectfully address the presiding officer, and shall confine him/herself to the question in debate and shall not make personal comments or criticisms addressed to any individual.
The presiding officer has the power to:

1) Control the floor and grant permission to speak;

2) Rule motions in or out of order;

3) Determine whether a speaker has gone beyond reasonable standards of courtesy, and rule a member out of order on this ground;

4) Entertain and rule on questions of procedure;

5) Call a brief recess at any time;

6) Adjourn in the case of an emergency. (Resolution No. 2005-06 §3).

2.02.070 Substantive motions

A motion may be made by any Council Member. A motion requires a second from another Council Member. A member may make only one motion at a time. Only one substantive motion may be considered at a time. A motion may be adopted only by majority vote of Council Members present. A roll call vote shall be taken upon the request of any member. The presiding officer shall state the motion, and then open the floor for Council discussion and debate according to the following principals:

1) A member must be recognized by the presiding officer in order to speak.

2) The maker of the motion is entitled to speak first.

3) A member who has not spoken on the issue shall be recognized prior to one who has previously spoken on the issue.

4) To the extent possible, debate shall alternate between proponents and opponents of the issue. (Resolution No. 2005-06 §4A).

2.02.080 Procedural motions

A procedural motion takes precedence over a substantive motion, and may interrupt deliberations on a substantive motion. A procedural motion is debatable and may be amended. In order of priority, allowable procedural motions are:

1) Motion to Appeal a Ruling of the Presiding Officer. A ruling of the presiding officer may be appealed. A motion to appeal the ruling of the presiding officer shall only be in order immediately following the ruling in question and prior to any further action. The member making this motion need not be recognized by the presiding officer, and, if timely made, can not be ruled out of order.

2) Motion to Adjourn. A member may move to adjourn prior to completion of the agenda, providing no other motion is pending and the motion to adjourn does not interrupt deliberations.

3) Motion to Recess. A member may move to take a brief recess, providing it follows consideration of a substantive action and does not interrupt deliberations. If passed, the presiding officer shall establish the duration of the recess.

4) Motion to Suspend the Rules. A member may move to suspend the rules. The motion must state the rule(s) being suspended. Rules imposed by state or federal law may not be suspended.

5) Motion to Convene an Executive Session. A member may move to close deliberations to the public and convene an executive session. The reason for the executive session, as listed in Section 1, Subsection E of this Resolution, must be stated in the motion. Substantive motions are not in order in executive session.

6) Motion to Leave Executive Session. The Council must leave executive session and return to open session prior to adjournment. This must be done by motion and voted upon.

7) Motion to Divide the Question. A member may move to divide a question under deliberation. The division must be stated in the motion.

8) Motion to Defer Consideration. A member may move to defer consideration of a substantive motion or other matter before the Council. The motion to defer may state a time certain. If it is not revived prior to achieving the stated time, the substantive motion which has been deferred expires. If no time certain is stated in the motion to defer, and the issue is not revived, the deferred substantive motion expires in 180 days. If consideration of a motion has been deferred and the deferral remains pending, a new motion having substantially the same effect is not in order.

9) Motion to Revive. A member may move to revive consideration of a substantive motion, which has been deferred regardless of whether that member made the motion to defer. A motion to revive shall not be in order in the same meeting in which a motion to defer has passed on the same question.

10) Motion to Call the Previous Question. A member may move to call for a vote on the previous question. A motion for the previous question is not in order until every member who wishes to speak has had the opportunity to speak at least once.

11) Motion to Refer to Committee. A member may move to refer a matter before the Council to a committee for study and review. Thirty days after a matter before the Council has been referred to a committee, the maker of the original substantive motion may move the original motion again regardless of action or lack thereof by the committee.

12) Motion to Amend. A member may move to amend a substantive motion before the Council. A motion to amend must be pertinent to the original motion. A motion to amend is out of order if the effect of the amendment is the same as rejecting the original motion. A motion may be amended, and that amendment may be amended, but no further amendments may be made until the last-offered amendment is decided on by vote. An amendment shall be reduced to writing before the vote on the amendment.

13) Motion to Substitute. A member may move to substitute completely different wording for a motion currently under deliberation.

14) Motion to Reconsider. A member on the prevailing side of a vote may move to reconsider the outcome of that vote. The motion to reconsider is only in order at the meeting at which the original vote was taken. The motion cannot interrupt deliberations on a pending matter, but is in order at any time prior to final adjournment of the meeting.

15) Motion to Repeal. A member may move to rescind or repeal any earlier action of the Council. The motion is not in order if rescission or repeal would violate by state or federal law.

16) Motion to Prevent Reintroduction. A member may move to prevent reintroduction of a matter before the Council for up to six months. This motion shall be in order immediately following defeat of a substantive motion and at no other time. (Resolution No. 2005-06 §4B).

2.02.090 Withdrawal of a motion

The maker of the motion may withdraw a motion, either substantive or procedural, at any time before it is amended or the presiding officer puts it to a vote. (Resolution No. 2005-06 §4C).

2.02.100 Renewal of a motion

A substantive motion that is defeated may be reintroduced at a later meeting unless a motion to prevent reconsideration has been adopted. (Resolution No. 2005-06 §4D).

2.02.110 Physical presence

A member must be physically present to vote. Proxy voting is not allowed. (Resolution No. 2005-06 §4G).

For the purpose of holding regular or special meetings a number less than a majority may compel the attendance of absent members in such manner and under such penalties as the council may, by ordinance, have previously prescribed. Regular or special meetings of the council may be recessed until further notice. (Idaho Code §50-705).

2.02.120 Duty to vote

A member may not abstain from voting unless a conflict of interest is declared, and the nature of the conflict is described in open session. A member declaring a conflict of interest for the purpose of abstaining from a vote may be compelled to vote by a majority vote of the remaining members. (Resolution No. 2005-06 §4H).

2.02.130 Classifications of bills, ordinances and resolutions

All actions of the Council involving the exercise of the City's legislative and police power functions, or actions otherwise required by law to be in ordinance form, shall be designated upon final passage as Ordinances and appear in form required by law. Upon first reading and prior to final passage, all ordinances shall be issued a Bill number.

All other actions of the Council relating to the administrative business of the City and requiring written findings or statements shall be designated as resolutions. (Resolution No. 2005-06 §6A).

2.02.140 Reading of bills and resolutions

1) Bills: Prior to final passage, all bills shall be read on three (3) different days, two (2) readings of which may be by title only and one reading of which shall be in full, unless a majority of the members of the full Council shall dispense with the rule.
2) Resolutions: Prior to final passage, all resolutions shall be read on one day, the reading of which may be by title only. (Resolution No. 2005-06 §6B).

2.02.140 Boards, commissions and committees

The Council may establish citizen boards, commissions, and committees to assist and advise it in its work. Bylaws, organization, membership, scope and jurisdiction, and procedural rules of such committees shall be established by the Council. (Resolution No. 2005-06 §7).

2.02.150 Unresolved questions

Questions not resolved by rules established by the Council shall be settled by the current edition of Roberts Rules of Order, so long as it does not conflict with Idaho law. (Resolution No. 2005-06 §8).

2.02.160 Council Member salary

Commencing January 1, 2008, the salaries of the members of the Rexburg City Council shall be as follows:

Each member of the City Council shall receive an annual salary in the sum of forty eight hundred dollars ($4,800), and shall be paid four hundred dollars ($400.00) monthly. (Ordinance 941 §1, 2007).

2.02.170 Qualifications to hold the office of city Council Member

Any person shall be eligible to hold the office of councilman of his city who is a qualified elector at the time his declaration of candidacy or declaration of intent is submitted to the city clerk, and remains a qualified elector under the constitution and laws of the state of Idaho. Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council. (Idaho Code §50-702).

2.02.180 Term of office for City Council Members

Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council. (Idaho Code §50-702).

2.02.190 President of the Council, election of

Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council. (Idaho Code §50-702).

2.02.200 President of the Council, Election of

Each councilman elected at a general city election, except as otherwise specifically provided, shall hold office for a term of four (4) years, and until his successor is elected and qualified. Councilmen elected at each general city election shall be installed at the first meeting in January following election. The manner of conducting that meeting shall be as herein set forth and not otherwise: the incumbents shall meet and conduct such business as may be necessary to conclude the fiscal matters of the preceding year; the newly elected shall then subscribe to the oath of office, be presented certificates of election, assume the duties of their position, and conduct such business as may be necessary, one (1) item of which shall be the election of a member as president of the council. (Idaho Code §50-702).

2.02.210 Vacancies on the Council and appointment to the Council

A vacancy on the council shall be filled by appointment made by the mayor with the consent of the council, which appointee shall serve only until the next general city election, at which such vacancy shall be filled for the balance of the original term. (Idaho Code §50-704).

2.02.220 Powers of the Council

The legislative authority of each city in the state of Idaho, except those operating under the provisions of section[s] 50-801 through 50-812 shall be vested in a council consisting of either four (4) or six (6) members, one half (1/2) of whom shall be elected at each general city election. Councils shall have such powers and duties as are now or may hereafter be provided under the general laws of the state of Idaho. (Idaho Code §50-701).

2.02.230 Change in number of Council Members

1) Any city may change to the greater or lesser number of councilmen after an election instituted by resolution of the council or by petition as provided for initiative in sections 50-502 through 50-517, Idaho Code, such election to be held not less than sixty (60) days before any general city election. When the proposition submitted to the electors shall receive a favorable vote, officials shall be elected at the succeeding general city election, provided however, that should such election be conducted in a year when no general city election is to be held, such new positions shall be filled by appointment within thirty (30) days.

a) When the number of councilmen to be elected is to be reduced from six (6) to four (4), there shall be elected one (1) councilman, to serve a term of four (4) years. At the next succeeding general city election, there shall be elected two (2) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

b) When the number of councilmen to be elected is to be increased from four (4) to six (6), there shall be elected three (3) councilmen, each to serve a term of four (4) years, and one (1) councilman to serve a term of two (2) years.

2) Any city operating under the city manager form of government may change to the greater or lesser number of councilmen after an election instituted under subsection (A).

a) When the number of councilmen to be elected is to be reduced from seven (7) to five (5);

i) If there are four (4) councilmen up for election at the next general city election, there shall be elected two (2) councilmen, each to serve a term of four (4) years.

ii) If there are three (3) councilmen up for election at the next general city election, there shall be elected one (1) councilman, to serve a term of four (4) years. At the next succeeding general city election, there shall be elected three (3) councilmen, each to serve a term of four (4) years and one (1) councilman, to serve a term of two (2) years.

b) When the number of councilmen to be elected is to be increased from five (5) to seven (7);

i) If there are two (2) councilmen up for election at the next general city election, there shall be elected four (4) councilmen, each to serve a term of four (4) years.

ii) If there are three (3) councilmen up for election at the next general city election, there shall be elected four (4) councilmen, each to serve a term of four (4) years and one (1) councilman to serve a term of two (2) years. (Idaho Code §50-703).

2.02.240 Examination of accounts of fiscal officers

At least once in each quarter of each year, the council shall examine, either in open session or by committee, the accounts and doings of all officers or other persons having the care, management or disposition of moneys, property or business of the city (Idaho Code §50-708).

CHAPTER 2.03 APPOINTIVE OFFICERS

2.03.010 Table of departments and heads

The following officers are appointed by the Mayor and ratified by the City Council:

Department	Officer
Financial Management	City Treasurer
Customer Support Services	City Clerk
Emergency Services	Chief of Emergency Services
Legal	City Attorney
Police	Chief of Police
Parks and Recreation	Recreation Director
Public Works	Public Works Director
* The GIS Coordinator is appointed jointly by the city and county.	

2.03.020 Oaths of office*

*Note to §2.07.020: Rexburg's Official Oath is adapted from Idaho Code §59-401.

1) Persons Required to take Oath of Office. Each of the following officers and employees in the Administrative Service shall be required to take an oath of office before entering upon the discharge of his duties, which oath shall be subscribed by the person taking it and shall be filed and preserved in the office of the City Clerk.

   a) Officers: The mayor, city council, city attorney and each appointed officer.

   b) Policemen: Every member of the Department of Police (including private, auxiliary, special, temporary or substitute policemen, which the City might find necessary to appoint).

2) Official Oath: "I, (insert name) do solemnly swear (or affirm) that I will support the Constitution of the United States, and the State of Idaho, and the Laws and Ordinances of the City of Rexburg, and that I will to the best of my ability, faithfully discharge the duties of the office of (insert office) in the city of Rexburg, Madison County, Idaho, during my continuance therein, so help me God."

   (Signature of person taking oath)
   Subscribed and sworn to before me this (date)
   (Signature of City Clerk)

ARTICLE I CITY TREASURER*

*Note to Article I: For statutory provisions requiring the mayor to appoint a city treasurer, see Idaho Code §50-204. For provisions concerning the duties of a city treasurer, see Idaho Code §50-208.

2.03.030 One person

The office of treasurer shall be held by one person, who shall perform all of the duties of city treasurer as prescribed and required by the laws of the state and the ordinances of the city, and such other duties as the city council may designate and require. (Ord. 619 §3, 1980).

2.03.040 Appointment of Director

The Director of the Department of Financial Management shall be appointed by the Mayor with the consent of the Council, and shall be in the unclassified service of the City.

2.03.050 Powers and duties

In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the Director of Financial Management to act to promote, secure and preserve the financial and property interests of the City, subject to the supervision and control of the Mayor. The Director of Financial Management shall:

1) Fiscal supervision over Officers. Exercise general supervision over all officers of the City regarding the proper management of the fiscal concerns of their respective offices

    a) Standard accounting practices. The Director of Financial Management shall keep controlling accounts with every department, agency and bureau of City government, and with all activities whatever owned or controlled by the city or in which the City has any pecuniary interest. The head of the Department of Financial Management is hereby authorized and directed, from time to time, to prepare forms of accounts, vouchers, reports, bills, orders, receipts, checks and other necessary forms to be used by the several city departments, agencies and bureaus in the transaction of all parts of public business as concerns the City's finances. He shall prescribe and issue the forms herein named to all City departments, agencies and bureaus to be used in the parts of public business which concern the City's finances.

    b) Report delinquent payments and financial reports. See that officers receiving money pay the same into the City Treasury, when thereto required, and that all necessary financial reports are made by officers, and shall report all delinquents in such payments or reports to the Executive and Council.

2) Duty upon default of officer. Report the default of any officer of the City to the Mayor who shall direct the City Attorney to take immediate legal measures for the recovery of the amount for which such officer may be in default

3) Responsibility for proceeds of bonds. Deposit the proceeds of all sales of bonds with the City Treasurer immediately after he shall have received the same, and, until such deposit, he shall be responsible for the amount thereof.

4) Payments of money from special trust funds. Pay out to the persons duly entitled thereto, on warrant of the Director of Finance and Management Services, without appropriation by the Council, any money paid into the Treasury pursuant to condemnation proceedings, or for the redemption of property sold for taxes, or arising from special assessments for public improvements, park fund certificates, condemnation fund certificates and all special trust funds.

ARTICLE II CITY CLERK*

*Note to Article II: For statutory provisions requiring the mayor to appoint a city clerk, see Idaho Code §50-204. For statutory provisions outlining the duties of a city clerk, see Idaho Code §50-207.

2.03.060 One person

The office of city clerk shall be held by one person, who shall perform all of the duties of the city clerk as prescribed and required by the laws of the state and the ordinances of the city, and such other duties as the city council may designate and require. (Ord. 619 §2, 1980).

2.03.070 Appointment

The City Clerk shall be appointed by the Mayor with the advice and consent of the Council, and such individual shall be qualified by training and experience to perform the duties of the office.

2.03.080 Powers and duties

The City Clerk shall:

1) Keep records of the Council. Maintain and preserve the minutes and records of the proceedings of the Council in accordance with the Charter and the proceedings of all Council committees.

2) Record ordinances. Record in full, uniformly and permanently, all ordinances and be the legal custodian of the same.

3) Publish Council action. Publish daily all adopted ordinances and resolutions of the Council, and all legal notices required by law or ordinance.

4) Serve meeting notices. Cause all notices of regular and special meetings of the Council to be served in accordance with state statutes, Charter provisions, City ordinances and the rules of the Council, and as directed by the Chair of the Council.

5) Maintain City seal. Have custody of the seal of the City and affix it to such documents as may be required and authorized pursuant to law.

6) Keep election records. Keep and maintain all election records and have custody of all property used in connection with elections.

7) Keep vital statistics. Prepare, attest and report on the vital statistics of the City.

8) Permits and licenses. Issue all permits and licenses except those which are required by ordinance to be issued by a particular department or office.

9) Custodian of bonds, contracts, etc. Be charged with the custody of the official bonds of City employees, except his own, which shall be in the custody of the City Treasurer, and with the custody of all deeds, mortgages, contracts, judgments, notes, debts, and chooses in action. He shall keep and administer all securities, bonds, or other forms of negotiable instruments owned by or belonging to the City.

10) Custodian of City documents. The Department of Finance and Management Services shall be the custodian of all official and surety bonds, deeds, insurance policies, contracts, agreements and such other instruments of a similar nature, except as may be otherwise provided in the City Charter.

11) Notice of expiration of term. Notify the appointing authority of the impending expiration of the term of office of a member of any board or commission, said notice to be given at least 30 days before such expiration.

ARTICLE III CHIEF OF EMERGENCY SERVICES*

*Note to Chapter 2.10: For statutory provisions authorizing the mayor to appoint a chief of emergency services see Idaho Code §50-204.

2.03.090 One person

The Emergency Services Department shall consist of a chief of emergency services, and other assistant chiefs as appointed by the chief of emergency services. (Ord. 380 §2, 1952).

2.03.100 Powers and duties

The chief of emergency services shall be the chief executive officer of the Emergency Services Department and shall be invested with the following authority and duties:

1) To have direct control, management and direction of all officers and men of the Emergency Services Department and the power to detail any of them to such public service as he may see fit, looking to the best interests and efficiency of the department;

2) To carry out strictly the enforcement of the rules and regulations of the department and be able to suspend or remove from service any officer or employee for cause in such manner as is provided in these regulations;

3) To exercise supreme command over the department at emergencies and over all equipment belonging to it;

4) To cause to be resolved all emergencies with the least possible damage to life and property and prevent unnecessary damage;

5) To see that the premises on which fires occur are left in such condition that they will not rekindle and cause further damage to life and property;

6) To observe the general condition of the department and apparatus and make a quarterly report to the supervisory body concerning same along with a complete report of the activities of the department;

7) To make a complete investigation of appropriate fires, keeping the record of and determining the cause to the best of the department's ability, and report fires to the National Fire Incident Reporting Service;

8) To keep complete records of the attendance of every employee to training, schools and meetings. (Ord. 380 §3(a), 1952).

It shall be the duty of the Emergency Services Board to have complete supervision of the fire department and require the chief of emergency services to make a complete annual report concerning the department in general, giving the description of the condition of the department, making suggestions and recommendations for major improvements, and telling of the activities during the year.

The chief of emergency services shall be directly responsible to the Emergency Services Board in his capacity as head of the Emergency Services Department. (Ord. 380 §1, 1952)**.**

2.03.110 Assistant Chiefs of Emergency Services

The assistant chiefs of emergency services shall rank next to the chief of emergency services and shall have similar qualifications. One assistant chief shall be over emergency medical services. The other assistant shall be over the fire department. The assistant chiefs shall take complete charge in the absence of that officer and be invested with the same authority and duties while so acting. (Ord. 380 §3(b), 1952).

ARTICLE IV CITY ATTORNEY*

*Note to Article IV: For statutory provisions requiring the mayor to appoint a city attorney, see Idaho Code §50-204. For statutory provisions outlining the duties of a city attorney, see Idaho Code §50-208A.

2.03.120 Appointment

The City Attorney shall be appointed by the Mayor with the advice and consent of the Council and shall, prior to such appointment, be admitted to practice before the Supreme Court of the State of Idaho. (Ord. 58 §38, 1903).

2.03.130 Powers and duties

The City Attorney shall represent the City in all causes in which the City is interested and shall have full and complete charge of the legal business of the City. The City Attorney shall be the legal advisor to the Mayor, to the Council and to all departments and agencies of the City except as may be otherwise provided by the Code. The City Attorney shall prosecute and defend actions and proceedings by and against the City and every department and agency thereof. In the furtherance of these general powers, the City Attorney shall:

1) Advise officers. Advise the Mayor, the Council or its committees, and the heads of all departments, agencies, boards, and commissions on all matters relating to their official powers, duties and functions

2) Verify ordinances. Be responsible for the verification of all ordinances and resolutions as requested by the Mayor or the Council. The City Attorney shall advise the Council as to the form and sufficiency of all ordinances prior to their adoption, and no ordinance shall be introduced until it shall either have been approved as to form by the City Attorney or until the City Attorney has filed with the City Clerk a statement of reasons why the ordinance is defective.

3) Give opinions. Render legal opinions upon any question of law submitted by the Chief Executive, the Council, or the heads of all departments, agencies, boards, or commissions.

4) Attend Council meetings. Attend in person or by designee all Council meetings in their entirety for the purpose of giving the Council any legal advice requested by its members, and, at the request of the presiding officer, attend committee meetings of the Council.

5) Prepare legal instruments. Prepare, review and approve all contracts, deeds, documents and instruments prior to the execution thereof by or on behalf of the City, its departments and agencies.

6) Prosecute offenders and defend officials. Prepare, when authorized by the Council, all charges and complaints against the City and appear in the appropriate court in the prosecution of, every person charged with the violation of a City ordinance or of any regulations adopted under authority of the Code or ordinances, or with the commission of a misdemeanor as declared by the Code or by virtue of its authority.

7) Appeals. Conduct and prosecute appeals from orders, decisions or judgments affecting any interest of the City as the City Attorney may, in the exercise of discretion, determine to be necessary or desirable.

8) Settlement of claims. Have the power to adjust, settle, compromise or submit to arbitration, any action, causes of action, accounts, debts, claims, demands, disputes and matters of favor of or against the City or in which the City is concerned as debtor or creditor, now existing or which may hereafter arise, not involving or requiring payment to exceed $5000 and with the permission of the Mayor may do likewise in matters not involving or requiring payment to exceed $25,000, provided the money to settle claims generally has been appropriated and is available therefore.

9) Make reports:

   a) Prompt report of decision. Promptly report the outcome of any litigation in which the City has an interest to the Executive and Council.

   b) Annual report of pending litigation. Make an annual report, to the Executive and Council, as of the 1st day of January, of all pending litigation in which the City has an interest and the condition thereof.

10) Workers' compensation. Prepare and approve all workers' compensation payrolls and investigate all cases in which workers' compensation is involved and be responsible for the filing of all documents and papers required by the Workers' Compensation Act of the State

11) Rates and utilities. Be responsible for representing the City in all causes, hearings, trials, and administrative or judicial review concerning rates, franchises, valuations, utility conducts, or other issues involving the City and the public utilities which affect it or are under its control, including, but not limited to, telephone, telegraph, radio, television, cable television, lighting, heating, water, sewer and transportation. In so doing, the City Attorney may retain a rate expert or experts to ensure proper review, analysis, study and recommendations on all utility matters, which expert shall prepare for submission to the Chief Executive and the Council, upon request, such reports and recommendations as may assist them in resolving rate determinations and other utility matters.

12) Keep records:

   a) Suits. Keep a complete record of all suits in which the City had or has an interest, giving the names of the parties, the court where brought, the nature of the action, the disposition of the case, or its condition if pending, and the briefs of counsel.

   b) Opinions and titles. Keep a complete record of all written opinions furnished by him.

13) Deliver records to successor. Deliver all records, documents and property of every description in his possession, belonging to his office or to the City, to his successor in office, who shall give him duplicate receipts therefore, one of which he shall file with the City Auditor

14) Professional assistants. The City Attorney may appoint deputy assistants and such other assistants as in his judgment are needed to carry on the legal business of the City.

15) Special counsel. In case of special or unusual circumstances or in any case where the City Attorney by reason of interest cannot represent the City, the Council, upon the request of the City Attorney, may by resolution appoint special counsel and fix his or her compensation.

ARTICLE V CHIEF OF POLICE*

*Note to Article V: For statutory provisions authorizing the mayor to appoint a chief of police see Idaho Code §50-204.

2.03.140 Appointment

The Chief of Police shall be appointed by the Chief Executive with the consent of the Council, in accordance with the provisions of the City Charter, and shall serve for the term specified therein.

2.03.150 Powers and duties

The Chief of Police shall be accountable to the Chief Executive and, subject to his supervision and control, shall have the following duties:

1) Administer the affairs of the Department.

2) Have general authority and control over all departmental staff and oversee the proper fulfillment of all tasks and duties assigned to the Department.

3) Prescribe such rules and regulations as he deems necessary or expedient for the proper operation of the Department and to that end keep himself informed of the latest administrative practices.

4) Take all personnel actions, including hiring, assigning and reassigning employees, including supervisory personnel, within his Department and shall supervise their performance.

ARTICLE VI RECREATION DIRECTOR*

*Note to Article VI: For statutory provisions authorizing the mayor to appoint a recreation director see Idaho Code §50-204.

2.03.160 Powers and duties

The Director of Recreation shall plan, promote, organize and supervise a comprehensive municipal recreation program and administer the same in the interest of the entire community, and shall:

1) Design all parks, parkways and public grounds.

2) Provide for the care, maintenance and landscaping of all public lands, including parks, parkways, golf courses and playgrounds.

3) Provide for the care, trimming and removal of all trees and shrubberies on all public lands and the maintenance, for assessment purpose, of accurate records pertaining to tree trimming.

4) Provide for the administration and maintenance of an arboreal disease control program, pest control program, and all reforestation and nursery programs.

5) Organize and program all recreational activities involving general public participation in a comprehensive and diversified program, including municipal athletics, senior citizen programs, arts and crafts, and other such programs.

6) Manage and coordinate public recreational and educational activities available for general public participation for which fees are charged, including such activities as golf, tennis, swimming, boating, biking, skiing, stadium use, concessions and other special entertainment or seasonal activities.

7) Preserve and maintain various forms of domesticated animals and wildlife for general exhibition, and the care, feeding and sheltering of the same.

The City designates the Parks, Recreation, and Cultural Arts Director or Director's designee in cooperation with the Upper Valley Arts Council and the Rexburg Beautification Committee to be responsible for the conservation and maintenance for all works of art in the public art program. (Ord. 937, 1.10.040(A), 2005).

ARTICLE VII PUBLIC WORKS DIRECTOR*

*Note to Article VII: For statutory provisions authorizing the mayor to appoint a public works director see Idaho Code §50-204.

2.03.170 Appointment

The Public Works Director of the Department of Public Works shall be appointed by the Mayor with the consent of the Council, and shall be in the unclassified service of the City.

2.03.180 Powers and duties

The Public Works Director shall be accountable to the Mayor and, subject to his supervision and control, shall have the following duties:

1) Administer the affairs of the Department.

2) Have general authority and control over all departmental staff and oversee the proper fulfillment of all tasks and duties assigned to the Department.

3) Prescribe such rules and regulations as he deems necessary or expedient for the proper operation of the Department and to that end keep himself informed of the latest administrative practices.

4) Take all personnel actions, including hiring, assigning and reassigning employees, including supervisory personnel, within his Department and shall supervise their performance.

CHAPTER 2.04 RECORDKEEPING*

*Note to Chapter 2.04: For provisions regarding the requirements for recordkeeping, see Idaho Code §50-9.

2.04.010 Retention of permanent records

The city clerk shall be responsible for the retention of all municipal records for Rexburg. The purpose of “destruction or removal” of all municipal records is strictly prohibited. (Idaho Code §50-908).

TITLE 3 DEPARTMENTS

For provisions concerning the creation of departments see §2.01.060, entitled Powers of Mayor, of this code.

CHAPTER 3.01 DEPARTMENT OF FINANCIAL MANAGEMENT

3.01.010 Department established

There is hereby established an executive department to be known as the Department of Financial Management. The head of such department shall be the director, who, prior to such appointment, shall possess such qualifications as the Council may by ordinance provide.

3.01.020 Departmental functions

The Department shall be responsible for the following:

1) Property management, including space allocation and communication systems;

2) Maintenance of a uniform system of accounts for all City money matters, and a system for receipt, deposit and recording of all moneys received by the City;

3) Management and operation of the treasury;

4) Management and operation of human resources;

5) Management and operation of risk management.

3.01.030 Divisions

The Department of Finance and Management Services shall be divided into the following divisions and supervisors thereof:

1) Division of the Treasury, supervised by the City Treasurer, who shall:

    a) Accounts of receipts and expenditures. Keep in proper books, a full and accurate account of all the moneys received and disbursed by him on behalf of the City, specifying the time of receipt and disbursement, from whom received and to whom disbursed, and on what account received and disbursed, and how paid.

    b) Cancellation of evidences of debt. Cancel all warrants and other evidences of debt against the City, whenever paid by him, by writing or stamping across the face thereof the words, "Paid by the City Treasurer," with the date of payment written or stamped thereon.

    c) Receive and disburse moneys. Receive and have custody of all moneys paid to the City and shall disburse City moneys upon the warrant of the City Auditor.

d) Collect moneys and fees due City. Demand and receive all moneys and fees owing to the City whenever any person is indebted to the City in any manner and the means of collection of such debt is not otherwise provided for by law. When any claim shall not be collectible by other methods, he shall report the same to the City Attorney for prosecution.

2) Division of Accounts, headed by the Financial Officer, who shall:

a) Audit accounts. Examine and audit the accounts of all officers and departments subject to the approval of the Chief Executive and Council.

b) Prescribe form. Prescribe the form of accounts and reports to be rendered to him.

c) Pay City employees. Pay City employees upon presentation of the properly certified payroll.

d) Budget duties. Prepare estimates of revenue, and shall give such other assistance in the preparation of the budget as may be required of him by the Executive.

e) Financial statements. Transmit to the Executive at least semi-monthly audited statements of cash on hand and of classified unencumbered appropriation balances for the City as a whole, and such other financial statements as the Chief Executive may from time to time require. He shall keep all departments, boards, commission, or institutions currently informed of its classified unencumbered appropriation balances.

f) Keep accounts. Keep all general accounts of the City government and of the respective departments, offices, boards, commissions and institutions thereof.

CHAPTER 3.02 DEPARTMENT OF CUSTOMER SUPPORT SERVICES*

*Note to Chapter 3.02: The Department of Customer Support Services responsibilities falls under the duties of the City Clerk, *see* Chapter 2.03, Article II.

CHAPTER 3.03 DEPARTMENT OF EMERGENCY SERVICES*

*Note to Chapter 3.30: The Department of Emergency Services is made up the Fire Department (City, County, Fire District), Ambulance Services (County facilitated) and the Hospital (County facilitated). There is an Emergency Services Board with representatives from the city and county. The Emergency Services Board, The Fire District Board, County Commissioners and City Council make up the four governing bodies for the Department of Emergency Services. The city and county support their portion of the Fire Department through their own budget allocations. The Ambulance District has its own taxing district. The Fire District also has its own taxing district and covers all residents outside the city. The Hospital is supported by there own revenue, but they are governed by the county.

3.03.010 Organization

It shall be the duty of the City Council of the City of Rexburg to have complete supervision of the Fire Department and require the Fire Chief to make a complete annual report concerning the department in general, giving the description of the condition of the department, make suggestions and recommendations for major improvements and tell of the activities during the year.

The Fire Chief shall be directly responsible to the City Council in his capacity as head of the Fire Department. (Ord. 380 §1, 1952).

3.03.020 Firemen

1 In general all firemen shall be trained to handle any and all of the fire apparatus provided, also the act in any desired capacity in handling first aid, fire appliances, hose, chemical engines or doing salvage work.

2 Any fireman leaving town for some time shall inform the Fire Chief immediately and obtain a leave of absence. Failure to do so may leave the company undermanned and shall be punishable (by fine, demerit, or other type of disciplinary action adopted by the department)

3 Appointment of new men to the Fire Department shall be made with the object of improving the operation efficiency and general excellency of the man-power. In the selection of men consideration shall be given to the following rules:

4 All firemen shall be required to pass a physical examination as shall be prescribed by the City Physician.

5 Membership in the Fire Department should of itself confer distinction and should carry some privileges sufficiently attractive to make membership desirable and sought after. The rate of payment for service at fires and drills shall be established by the City Council.

6 It shall be mandatory for a fireman to retire at the age of 62 years.

7 Strict discipline shall at all times be maintained for the purpose of contributing as a necessary factor, to the smoothness of operation and efficiency of the department.

8 Fireman shall hereby note that absolute discipline and the prompt obedience to orders is at all times required. (Ord. 380 §4, 1952).

3.03.030 Drills

1 The department shall be drilled and maintained to the end that fires shall be controlled immediately at their start so far as possible. Drills shall be in charge of a competent officer of fireman who shall be responsible for the proper training and drilling of men and the standardization of methods.

2 Complete drills shall be held by each company at least twice a month. (Company drills for full paid men should be held at least weekly.) (Ord. 380 §5, 1952).

3.03.040 Building inspections

1) The fire Chief or any person he may so designate is hereby authorized, empowered, and required to inspect from time to time, but no less frequently than twice yearly, all buildings and premises where accumulation of combustible materials or other hazardous conditions and liable to exist and to order such changes or removals as in his opinion are necessary for safety from fire, principally in the business and industrial sections; for the purpose of inspection, he is hereby empowered to enter any and all buildings and premises at any reasonable hour.

2) Also, in the same districts for the purpose of facilitating fire fighting, building inspections shall be made by the department officers from time to time but not less frequently than once every three months to determine the arrangements of buildings with respect to one another, to familiarize themselves with the inside of every building and its contents, to study the best methods of attacking every building in case of fire and to note all new constructions.

3) Records shall be kept of all inspections including notes and sketches. These records, shall be made a permanent part of the records of the Fire Department.

4) The Fire Chief or any person he may so designate, is hereby authorized, empowered and required to inspect buildings in which public gatherings are held at the time of such gatherings and to prohibit the overcrowding of any building in which such gatherings are held and to prohibit the closing or crowding of exits by people and the obstruction of stairways at such gatherings. (Ord. 380 §6, 1952).

CHAPTER 3.04 POLICE DEPARTMENT*

*Note to Chapter 3.04: For statutory provisions requiring local officers to enforce the Idaho Motor Vehicle Laws, see Idaho Code §49-103.

3.04.010 Department established

There is hereby established an executive department of the City of Rexburg to be known as the Police Department. The head of such department shall be the Chief of Police, who shall be appointed by the Mayor and ratified by the City Council. (Ord. 58 §1, 1900).

3.04.020 Departmental functions

The Department shall perform the following functions:

1) Crime prevention. Preserve the public peace, prevent crime, and detect and arrest offenders.

2) Traffic enforcement. Administer and enforce laws regulating, directing, controlling and restricting the movement of vehicular and pedestrian traffic, and the general use of the streets by vehicles and the public.

3) Training. Operate a training program to maintain and improve the competency and efficiency of the members of the Department.

4) Incident report preparation. Prepare reports on injuries to persons and property occurring by accident or otherwise on the streets, in alleys and other public places within the City as required by law.

5) Weapons disposition. Provide a procedure for the sale, destruction or other disposition of all weapons or other articles used in the commission of crime or coming into the custody of the Department; provided, that where such weapon or article may be used as evidence in either a civil or criminal proceeding, it shall in no way be disposed of except upon a written order of a court of law.

6) Lost property. Provide a procedure for the sale of unclaimed, lost or stolen articles coming into the custody of the Department.

3.04.030 Regulations – Administration and enforcement authority

Administration and enforcement of this title shall be vested in the police department, subject to the control of the mayor and council as provided for in this title. (Ord. 482 §1(part), 1968).

3.04.040 Peace Officer training*

*Note to Chapter 3.04.040: For statutory provisions concerning the training of peace officers and requiring the participation of political subdivisions in same, see Idaho Code §§19-5115 to 19-5122.

1) Desire to qualify for aid. The city declares that it desires to qualify to receive aid for police training from the Law Enforcement Planning Commission under the provisions of Idaho Code §19--5118. (Ord. 506 §1, 1970).

2) Adherence to standards. Pursuant to said Idaho Code §19-5118, the city, while receiving aid from the Law Enforcement Planning Commission pursuant to said statute, will adhere to the standards for employment and training established by the Idaho Peace Officer Standards and Training Advisory Council. (Ord. 506 §2, 1970).

CHAPTER 3.05 DEPARTMENT OF PARKS, RECREATION, AND ARTS

CHAPTER 3.06 DEPARTMENT OF PUBLIC WORKS

3.06.010 Department established

There is hereby established an executive department of the City of Rexburg to be known as the Department of Public Works. The head of such Department shall be the Director of Public Works, who, prior to such appointment, shall possess such qualifications as the Council may by ordinance provide. The Department of Public Works shall be organized into the Divisions of

Engineering Department, Equipment Shop, Street Department, Sanitation Department, Water Department, and Wastewater Department. (Ord. 58 §30, 1903).

3.06.020 Division of Streets Department

Within the Department of Public Works, there shall be a Street Department. Under the supervision of the Public Works Director, the Street Department shall:

1) Have charge of all matters relating to the design and engineering functions to be performed by the Department of Public Works, involving streets, alleys, sidewalks and bridges.

2) Have charge of all matters relating to the construction of public works' street and bridge projects including inspecting, advising and approving the construction of all such works.

3) Have charge of the preparation and maintenance of the City's records dealing with streets, bridges and other public ways located within the City limits.

4) Be responsible for the maintenance of all public streets, sidewalks, alleys and bridges.

5) Be responsible for the control and usage of all public streets, sidewalks, alleys and bridges.

3.06.030 Wastewater Department

Within the Department of Public Works, there shall be a Wastewater Department. Under the supervision of the Public Works Director, the Wastewater Department shall:

1) Have charge of all matters relating to the design and engineering functions to be performed by the Department of Public Works, involving sewers, flood control and drainage.

2) Have charge of all matters relating to the construction of public works' sewers and related structural projects, including inspecting, advising and approving the construction of all such works.

3) Be responsible for the maintenance of all public sewers and other drainage facilities.

4) Be responsible for the control and usage of all public sewers and other drainage facilities.

5) Be responsible for the physical inspection and maintenance of flood-control devices.

6) Implement flood-control measures in cooperation with the emergency preparedness functions of the City and of other governmental agencies.

3.06.040 Sanitation Department

Within the Department of Public Works there shall be a Sanitation Department. Under the supervision of the Public Works Director, the Sanitation Department shall:

1) Provide for a municipal solid waste collection, recycling and disposal system and establish billing procedures therefore.

2) Regulate the public collection and removal of solid waste and assist in the enforcement of all laws governing the storage, removal and handling of such solid waste within the City.

3) Coordinate and administer any assigned duties involved in the planning, construction and maintenance of solid waste disposal or resource reclamation facilities including cogeneration facilities or other energy-producing facilities.

3.06.050 Shop Department

Within the Department of Public Works there shall be a Shop Department. Under the supervision of the Public Works Director, the Shop Department shall:

1) Have charge of the repair of all equipment and vehicles belonging to the Department of Public Works.

2) Have charge of the repair of all other assigned City equipment.

3.06.060 Engineering Department

Within the Department of Public Works there shall be a Municipal Engineering Division. Under the supervision of the City Engineer and Director, the Division shall:

1) Be responsible for the planning, design and construction of all assigned public works improvement projects.

2) Be responsible for the planning, design and construction of other assigned City improvement projects.

3) Be responsible for land surveying.

4) Be responsible for project management of all projects generated externally from public works, but involving more than one line division of the Department of Public Works.

3.06.070 Water Department

Within the Department of Public Works, there shall be a Water Department. Under the supervision of the Public Works Director, the Water Department shall:

1) Have charge of all matters relating to the design and engineering functions to be performed by the Department of Public Works, involving piping, pumping, and storage of water.

2) Have charge of all matters relating to the construction of public works' water storage containers, and piping and related structural projects, including inspecting, advising and approving the construction of all such works.

3) Be responsible for the maintenance of all public water facilities.

4) Be responsible for the control and usage of all public water facilities.

3.06.080 Planning and Zoning Department

Within the Department of Public Works, there shall be a Planning and Zoning Department. Under the supervision of the Public Works Director, the Planning and Zoning Department shall:

1) Have charge of all matters relating to the planning and zoning functions to be performed by the department of Public Works.

CHAPTER 3.07 DEPARTMENT OF GEOGRAPHICAL INFORMATION SYSTEMS

3.07.010 Department established

There is hereby established an executive department of the City of Rexburg to be known as the GIS/IT Department. The head of such department shall be the GIS Coordinator, who shall be appointed by the Mayor and ratified by the City Council.

CHAPTER 3.08 DEPARTMENT OF INFORMATION TECHNOLOGIES

TITLE 4 COMMISSIONS, COMMITTEES AND BOARDS

Title 4 sets forth the purpose, creation, duties and compensation of the various committees and boards of the City government.

CHAPTER 4.01 PLANNING AND ZONING COMMISSION*

*Note to Chapter 4.01: For statutory provisions concerning the creation, powers and duties of the planning commission, see Idaho Code Ch. 50-11. For provisions authorizing the planning commission to operate as a zoning commission, see Idaho Code §50-1210.

4.01.010 Creation – Composition and appointment

There is created a planning commission for the city pursuant to the provisions of Chapter 51 of the First Extraordinary Idaho Session Laws of 1935. The planning commission shall consist of seven members, one to be designated from among the members of the city council by the mayor, and the other six to be appointed by the mayor from among the resident taxpayers of the city (provided one member may be a nonresident taxpayer), at least four of whom shall hold no other public municipal office. Of the six members first appointed, two shall be appointed for two years, two for four years, and two for six years; all subsequent appointments shall be for periods of six years, or until their successors shall have been appointed. All appointments to the planning commission by the mayor shall be subject to approval of the city council, and any member of the planning commission may be removed for cause after public hearing by the city council. Members of the planning commission shall be selected without respect to political affiliations and shall serve without compensation. (Ord. 353 Art. 1 §1(part), 1946).

4.01.020 Term of office – Expiration

The term of office of members of the planning board shall expire May 1st and the organization of the board shall take place biannually at the first meeting of the planning commission in June, commencing with the year 1953. The term of office of a member of the planning commission from the city council shall expire every six months commencing June 1, 1951. (Ord. 376 §1, 1951: Ord. 353 Art. 1 §1A, 1946).

4.01.030 Chairman – Meetings – Rules – Recordkeeping required

The planning commission shall select its own chairman for a term of one year from among the six appointive members. Regular meetings shall be held at least once each month. The planning commission shall adopt roles for its own organization and for the transaction of business and shall keep a public record of its proceedings. All meetings shall be open to the public. (Ord. 353 Art. 1 §1(part), 1946).

4.01.040 Powers and duties generally

It shall be the duty of the planning commission to recommend and make suggestions to the city council, for the adoption of coordinated plans for the physical development of the city; for the

formation of zoning districts; to make suggestions concerning the laying out, widening, extending and locating of streets, roads and highways for the relief of traffic; to make suggestions concerning density of population and development of land within the jurisdiction of the city; to make suggestions concerning the future growth, development and beautification of the city in order to promote the public health, morals, safety and welfare of the inhabitants thereof; to give suggestions and advice to individuals, firms, or corporations concerning landscaping or location of buildings, structures of works to be erected, constructed or altered by or for such individuals, firms or corporations. The planning commission may cooperate with other and like commissions along the lines and purposes prescribed in this chapter. The planning commission may recommend to the mayor and city council programs for public improvements and the financing thereof. In general, the planning commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. (Ord. 353 Art. 3, 1946).

4.01.050 Zoning commission duties

The planning commission shall also serve as a zoning commission, pursuant to the provisions of Section 49-406, Idaho Code Annotated. (Ord. 353 Art. 1 §1(part), 1946).

4.01.060 Expenditure restrictions

The planning commission may appoint employees and may contract with city planners and other consultants, provided its expenditures, exclusive of gifts, shall be within the amounts appropriated for the purpose by the city council. (Ord. 353 Art. 1 §1 (part), 1946).

CHAPTER 4.02 TABERNACLE CIVIC CENTER COMMITTEE*

*Note to Chapter 4.02: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code.

4.02.010 Purpose

There is created a committee which shall be designated as the Rexburg Tabernacle management committee. (Ord. 699 §1(part), 1990).

4.02.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members. (Ord. 699 §1(part), 1990).

4.02.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business. (Ord. 699 §3, 1990).

4.02.040 Vacancies

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

4.02.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.03 HISTORICAL PRESERVATION COMMITTEE*

*Note to Chapter 4.03: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code.

4.03.010 Purpose

The purpose of this committee is to promote the educational, cultural, economic and general welfare of the public of the City of Rexburg through identification, evaluation, designation, and protection of those buildings, sites, districts, areas, structures, and objects that reflect significant elements of the City's, the State's, and the Nation's historic, architectural, archaeological, and cultural heritage. (Ord. 884, §1, 2002).

4.03.020 Definitions

The following words and phrases when used in this Ordinance shall have, unless the context clearly indicates otherwise, the following meanings:

1) City: The City of Rexburg.

2) Commission: The Historic Preservation Commission of the City of Rexburg.

3) Historic Property: Any building, structure, district, area or site that is significant in the history, architecture, archaeology or culture of this community, the State or the Nation.

4) Designated Historic Property: In order for any historic property to be designated in the ordinance, it must, in addition, meet the criteria established for inclusion of the property in the National Register of Historic Places.

5) Historic Preservation: The identification, evaluation, recordation, documentation, curation, acquisition, management, protection, restoration, rehabilitation, stabilization, maintenance, interpretation, conservation, and education of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archaeology or culture of this State, its communities or the Nation. (Ord. 884, §2, 2002).

4.03.030 Appointment

1) The Historic Preservation Commission shall consist of nine (9) members who shall be appointed by the Mayor with the advice and consent of the Council.

2) Members of the Commission, at least seven (7) of whom shall be residents of the City, shall demonstrate an interest in the historical and architectural development of the City, and shall be appointed with due regard to the proper representation of such fields as history, architectural history, architecture, landscape architecture, urban planning, engineering, archeology and law.

3) Members shall be appointed by the Mayor with the consent of the City Council, and shall serve terms of three (3) years. Terms of current members shall not be affected by passage of this Ordinance. Members may be reappointed upon approval of the Council.

4) Vacancies shall be filled in the same manner as original appointments and the appointee shall serve for the remainder of the unexpired term. (Ord. 884, §3(part), 2002).

4.03.040 Compensation

The members of the Commission shall serve without compensation, but may be reimbursed by the City for approved expenses incurred in connection with their duties. (Ord. 884, §3(part), 2002).

4.03.050 Vacancies

Vacancies shall be filled in the same manner as original appointments and the appointee shall serve for the remainder of the unexpired term. (Ord. 884, §3(part), 2002).

4.03.060 Organization, officers, rules, meetings

1) The Commission shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this Ordinance. Rules of procedure and bylaws adopted by the Commission shall be available for public inspection.

2) The commission shall elect officers from among the Commission members. The chairperson shall preside at meetings of the Commission. The vice-chairperson shall, lacking the chairperson, perform the duties of the chairperson.

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

4) The Commission may recommend to the Council, within the limits of its funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the Commission. (Ord. 884, §4, 2002).

4.03.070 Powers, duties, and responsibilities

The Commission shall be advisory to the Council and shall be authorized to:

1) Conduct a survey of local historic properties.

2) Recommend the acquisition of fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequest, or donation.

3) Recommend methods and procedures necessary to preserve, restore, maintain and operate historic properties under the ownership or control of the City.

4) Recommend the lease, sale, or other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.

5) Contract, with the approval of the Council, with the state or federal government, or any agency of either, or with any other organization.

6) Cooperate with the federal, state, and local governments in the pursuance of the objectives of historic preservation.

7) Make recommendations in the planning processes undertaken by the county, the city, the state, or the federal government and the agencies of these entities.

8) Recommend ordinances and otherwise provide information for the purposes of historic preservation in the City.

9) Promote and conduct an educational and interpretive program on historic preservation and historic properties in the City.

10) Commission members, employees or agents of the Commission may enter private property, buildings, or structures in the performance of its official duties only with the express consent of the owner or occupant thereof.

11) Review nominations of properties to the National Register of Historic Places for properties within the City's jurisdiction. (Ord. 884, §5, 2002).

4.03.080 Commission funding

The City Council may make funds available to the Commission for grant-matching purposes, or for projects deemed suitable by the Council. Any such funds may be retained in a special account by the City. (Ord. 884, §6, 2002).

4.03.090 Special restrictions

Under the provisions of Idaho Code 67-4612, the City of Rexburg may provide by ordinances, special conditions or restrictions for the protection, enhancement and preservation of locally designated historic properties. (Ord. 884, §7, 2002).

CHAPTER 4.04 DOWNTOWN VISION COMMITTEE*

*Note to Chapter 4.04: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.04.010 Purpose

The Downtown Vision Committee works to promote Downtown Rexburg by discussing and making decisions about incentives, promotions, recruitment, retention, expansion and future direction of the downtown area.

4.04.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.04.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.04.040 Vacancies

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

4.04.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.05 MAYOR'S YOUTH ADVISORY BOARD*

*Note to Chapter 4.05: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.05.010 Purpose

The Mayor's Youth Advisory Board works to strengthen the relationship between the youth and the community by communicating and working with the mayor and community leaders. They provide information, do research, and oversee community projects.

4.05.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.05.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.05.040 Vacancies

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

4.05.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.06 UPPER VALLEY ARTS COMMITTEE*

*Note to Chapter 4.06: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.06.010 Purpose

Recognizing that the arts are essential to a healthy society, the Rexburg Fine Arts Council promotes an appreciation for, development of, and participation in the cultural arts through all segments of our community.

4.06.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.06.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.06.040 Vacancies

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

4.06.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.07 REXBURG BEAUTIFICATION COMMITTEE*

*Note to Chapter 4.07: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.07.010 Purpose

The Beautification Committee promotes beautification projects and coordinates holiday decorations and beautification awards for the City of Rexburg.

4.07.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.07.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.07.040 Vacancies

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

4.07.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.08 PARKS AND RECREATION COMMITTEE*

*Note to Chapter 4.08: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.08.010 Purpose

The purpose of the Parks and Recreation Committee shall be to advise the City Council on the parks and recreational needs of the City of Rexburg.

4.08.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.08.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.08.040 Vacancies

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

4.08.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.09 MUSEUM COMMITTEE*

*Note to Chapter 4.09: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.09.010 Purpose

The purpose of the Museum Committee is to supervise a permanent museum for the collection, preservation and exhibition of artifacts relating to Rexburg. The committee serves as the administrative staff for the museum and gift shop, making decisions about fund raising, display, special events and other areas vital to preserving the heritage of the area.

4.09.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.09.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.09.040 Vacancies

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

4.09.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.10 INTERNATIONAL BUILDING CODE (I.B.C.) COMMITTEE*

*Note to Chapter 4.10: For provisions concerning the creation of commissions and or committees, see §2.0.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.10.010 Purpose

Review complaints of improper application of the International Building Code.

4.10.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.10.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.10.040 Vacancies

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

4.10.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.11 GOLF BOARD (JOINT CITY/COUNTY)*

*Note to Chapter 4.11: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.11.010 Purpose

The Golf Board serves as a forum for communication between various golfing constituencies and the contract operator and the City of Rexburg and Madison County. They render advice and opinions concerning future capital improvements or infrastructure replacement needs required at the courses. They also recommend adjustments in rates and charges at the courses.

4.11.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.11.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.11.040 Vacancies

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

4.11.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.12 AIRPORT BOARD (JOINT CITY/COUNTY)*

*Note to Chapter 4.12: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.12.010 Purpose

The purpose of the Airport Board is to provide recommendations to the Rexburg City Council and Madison County Commissioners for their consideration on the various phases of airport operations.

4.12.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.12.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.12.040 Vacancies

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

4.12.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.13 TRAILS OF MADISON COUNTY COMMITTEE (JOINT CITY/COUNTY)*

*Note to Chapter 4.13: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code. For an example of committee organization see Ordinance 699.

4.13.010 Purpose

To advise the City and County in planning, promoting and facilitating the design and construction of walking, jogging and biking trails in Madison County.

4.13.020 Appointment

The Mayor, with the consent of the City Council, shall appoint committee members.

4.13.030 Compensation

All members of the committee shall serve and act without compensation, except that their actual and necessary expenses shall be allowed, and the city shall purchase the necessary and suitable equipment and supplies to enable the committee to properly transact and attend to its business.

4.13.040 Vacancies

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

4.13.050 Bylaws

The committee shall adopt bylaws with which to govern themselves. These bylaws shall be ratified by the city council and shall act as the rules of the committee.

CHAPTER 4.14 TRAFFIC SAFETY COMMISSION*

*Note to Chapter 4.14: For provisions concerning the creation of commissions and or committees, see §2.01.060, entitled Powers of Mayor, of this code.

4.14.010 Creation

There is hereby created and established a commission to be known as "Rexburg Traffic Safety Commission." (Ord. 497, §1, 1969).

4.14.020 Membership and Terms of Office

The Traffic Safety Commission shall consist of ten (10) members to be appointed by the Mayor, with the consent and approval of the Council. Members of said commission shall hold office for a period of six (6) years each and said terms shall be staggered in such a manner so that the terms of not more than four (4) members shall expire in any one (1) year. Two (2) of such members shall hold office for a term of three (3) years; four (4) for four (4) years, and four (4) for six (6)

years, the respective terms of office to be determined by lot at the first meeting of the commission. Thereafter, the term of office for each appointive member shall be six (6) years. Members shall be selected so that there shall always remain in the commission one (1) school administrator; one (1) City Engineer or public Works director or personnel director; one (1) city judge or magistrate; one (1) county commissioner; one (1) chief of Police; one (1) city attorney, and four (4) local citizens, and shall serve without compensation. (Ord. 497, §2, 1969).

4.14.030 Vacancies

Vacancies shall be filled by appointment of the Mayor, with the consent of the Council. (Ord. 497, §3, 1969).

4.14.040 Organization

The commission shall elect its own chairman and secretary, and create and fill such other offices as it may determine necessary, and adopt such rules as it shall deem necessary to carry out its purposes. (Ord. 497, §4, 1969).

4.14.050 Meetings

The commission shall hold one (1) regular meeting each month for not less than nine (9) months in each year. A majority of the appointive members of the commission shall be necessary to constitute a quorum at any meeting. All meetings shall be open to the public. A written record of its meetings, resolutions, findings, and determinations shall be kept, Which shall be a public record.

The commission may require the attendance at any meeting of such other city Officials as it may deem necessary. (Ord. 497, §5, 1969).

4.14.060 Duties

It shall be the duty of the commission to recommend and make suggestions to the Council for the adopting of plans for traffic safety as recommended by the National Safety Council Study of 1968; to coordinate all Rexburg City Traffic Safety Plans into the State of Idaho Plan; to make suggestions for projects designed to increase safety in pedestrian and school traffic in the City and to generally recommend to the Council plans to improve traffic safety in the entire City of Rexburg. (Ord. 497, §6, 1969).

TITLE 5 REVENUE AND FINANCE

Title 5 sets forth the financial provisions applicable to the city generally.

CHAPTER 5.01 CAPITAL IMPROVEMENTS FUND*

*****Note to Chapter 5.01: For statutory provisions authorizing a city to levy a capital improvement fund or a specific purpose, see Idaho Code §50-236.

5.01.010 Tax levy – Restrictions

There is levied upon all taxable property within the city limits subject to taxation for the city purposes for city government a special tax not to exceed in aggregate two mills in any one year, said special tax to be levied each and every year commencing with the year 1968, and such fund never to exceed in aggregate two percent of the assessed valuation. (Ord. 476 §1, 1968).

5.01.020 Disposition and expenditure of collected funds

The moneys received from the special tax described in Section 5.01.010 shall be placed in a capital improvements fund and used for the specific purpose of purchasing and/or constructing, repairing and furnishing a city hall for the city, and for purchasing necessary office equipment. (Ord. 476 §2, 1968).

CHAPTER 5.02 ARTS FEE ON CAPITAL IMPROVEMENT PROJECTS

5.02.010 Purpose

It is the purpose of this chapter and the policy of the City of Rexburg through the dedication of one and a quarter percent (1.25%) of the total cost of all eligible capital improvement projects to include art in public places in the City in order to, beautify public areas, enhance the quality of life for Rexburg citizens, attract tourism, and provide incentives to business' to locate within the City, thus expanding Rexburg's economic base. (Ord. 937, §1, 2005).

5.02.020 Definitions

As used in this article:

1) Capital Improvement Project: "Project" means the City's portion of all capital municipal construction or improvement projects or portions of projects, including construction, renovation or remodel of any public park, eligible street projects, building, parking facility or any portion thereof within the City limits;

2) Eligible Capital Improvement Projects:

a) Those capital improvement projects which are developed privately and leased back to the City of Rexburg.

b) Any capital improvement project to remodel any municipal building where the cost of the remodeling is in excess of Twenty-five Thousand and No/100 Dollars ($25,000.00)

c) Eligible Capital Improvement Projects **do not** include projects paid for from the City Streets budget or a Local Improvement District (LID).

d) In the event bonds are used to fund capital improvement projects, the capital improvement project shall be an eligible capital improvement project if so approved by:

i) The bond election ordinance; or

ii) The bond ordinance authorizing revenue bonds; or

iii) Other appropriate laws or regulations; or

iv) An official interpretation by another governmental entity regarding reliable use of funds which the agency is providing for the project and which includes art as an expenditure of funds.

3) Nothing contained herein shall preclude funding the acquisition of public art for municipal property in other ways. The City encourages matching funds whenever possible. (Ord. 937, §1.10.020, 2005).

5.02.030 General requirements for art

1) Works of art may be an integral part of a structure, attached to a structure or detached from a structure within or outside of it. Works of art may also be located on any publicly owned property.

2) Any works of art which are chosen must comply with the following standards in addition to any guidelines subsequently established by the City Council upon recommendation of the Upper Valley Arts Council and the Rexburg Beautification Committee.

a) The work of art must be located in a public place with public visibility and impact.

b) The work of art must be consistent with general standards of decency and respect for the beliefs and values of the community

2) A Public Arts Account shall be established, into which monies from this ordinance shall be deposited. Preference shall be given to arts projects which are a part of the capital project generating the funds, but in the event that such is not practicable the funds may be set aside for future public arts projects. Art shall be selected with the goal of:

a) Integrating a wide range of public art into the community which reflects the diversity of artistic disciplines;

b) Developing a collection of public art which reflects the history and character of the community with an eye towards its future;

c) Educating about art and artists and encouraging public dialog;

d) Providing opportunities for artists to advance their work, with a preference for local artists, including commissioning original works of art;

e) Enabling the preservation of cultural traditions.

3) Money from the Public Arts Account may not be spent for:

a) Works of art which are not approved by the City Council;

b) Objects of standard design or mass production excluding works of art approved by the City Council;

c) Directional elements (signs providing direction) unless executed by the artist; (Ord. 937, §1.10.030, 2005).

5.02.040 Administrative responsibilities

1) The City designates the Parks, Recreation, and Cultural Arts Director or Director's designee in cooperation with the Upper Valley Arts Council and the Rexburg Beautification Committee to be responsible for the conservation and maintenance for all works of art in the public art program.

2) An annual report shall be prepared by the Upper Valley Arts Council and the Rexburg Beautification Committee and submitted to the City Council on the condition and maintenance requirements on all works of art in the public art program.

3) Public Arts shall not be inconsistent with the City's comprehensive plan, goals, and purposes, zoning and subdivision ordinances, and land uses contemplated therein. (Ord. 937, §1.10.040, 2005).

5.02.050 Source of funds

1) From each eligible capital improvement project, the City council shall place in the public art account an amount equal to one and one quarter percent (1.25 %) of the project's capitalized costs to the City regardless of whether the project is completed. The City's contributions to the public art account pursuant to this chapter shall be funded from the City's current expense fund.

2) Of the one and one quarter percent (1.25%) from each eligible capital improvement project allocated to the public art account;

a) No less than one percent (1%) of the eligible capital improvement project costs shall be allocated toward purchase, creation or installation of such public art pieces.

b) No more than twenty-five hundredths percent (.25%) of the eligible capital improvement projects costs shall be used for administrative costs including but not limited to actual acquisition siting, costs of selection of public art, and maintenance of public art.

3) In computing the amount to place in the public art account, the project's capitalized costs to the City shall include:

a) All capitalized amounts paid by the City to third parties in connection with the projects, including; however not limited to, amounts paid on contracts relating to the project and consultant fees incurred in connection with the project; and

b) In computing the amount to place in the public art account, the project's capitalized costs to the City shall not include any portion of the project's cost which is not funded by the City unless it meets the conditions of §1.10.020 of Ordinance 937. (Ord. 937, §1.10.050, 2005).

CHAPTER 5.03 WATERWORKS FUND*

*****Note to Chapter 5.03: For statutory provisions requiring the treasurer to deposit all funds in a place provided by ordinance, see Idaho Code §50-1013.

5.03.010 Created

There is created a fund which shall be known as the "waterworks fund." (Ord. 105 §1, 1906).

5.03.020 Source of moneys

All moneys received from the sale of waterworks bonds shall be apportioned to the waterworks fund. All moneys received from assessments, or tax levy on property abutting the pipelines of the city water works system, which may have been taxed or assessed, or which shall hereafter be taxed or assessed for the purpose of building or constructing the city waterworks system shall be apportioned to the waterworks fund. (Ord. 105 §2, 1906).

CHAPTER 5.04 REVOLVING LOAN FUND

5.04.010 Establishment – Use of fund

The city of Rexburg hereby establishes a revolving loan fund in the amount of one million dollars which shall be used to create a permanent pool of funds to attract and maintain businesses in the city and its surrounding area and also may be loaned to the city for city projects and improvements. (Ord. 701 §1, 1990).

5.04.020 Repayment conditions

All loans are to be repaid on the terms and conditions designated by the city, together with a loan interest rate near the prime rate. (Ord. 701 §2, 1990).

5.04.030 Purpose

The purposes for which these funds shall be loaned are for job creation or job purposes that will create or retain jobs in the city and/or its surrounding area. (Ord. 701 §3, 1990).

5.12.040 Withdrawals

Any withdrawals from the fund for any such purposes and projects, together with interest thereon, shall be repaid to this revolving loan fund. The terms and conditions of such loan shall be determined by the city. (Ord. 701 §4, 1990).

CHAPTER 5.05 STREETS DEVELOPMENT IMPACT FEE REPORT*

*Note to Chapter 5.05: For statutory provisions authorizing a city to require a streets development impact fee, see Idaho Code §67-82. For “City of Rexburg Streets Development Impact Fee Report”, see appendices 7A – 7I.

5.05.010 Findings

After a public hearing by the City Council to consider a Report entitled, "City of Rexburg Streets Development Impact Fee Report," dated July 05, 2006, hereinafter referred to in Chapter 5.14 as “Report,” the City Council has made and does hereby make the following findings, to wit:

1) That the City is responsible for and committed to the provision of public facilities and services at levels necessary to cure any existing public service deficiencies in already developed areas;

2) That such facilities and service levels shall be provided by the City utilizing funds allocated via the capital budget and capital improvements programming processes and relying upon the funding sources indicated therein;

3) That new development, however, will cause and impose increased and excessive demands on existing City public facilities and services that would not otherwise be necessary;

4) That the City Council has considered and accepted the findings contained in the "City of Rexburg Streets Development Impact Fee Report," dated July 05, 2006 which indicates build out projections, public facilities analysis and the methodology for the determination of impact fees and that these findings are incorporated herein by reference;

5) That the build out projections as contained in the "Report" are based on the land use assumptions obtained from the Madison County Transportation Plan, adjusted for the study area;

6) That the build out projections as contained in the "Report" indicate that such development will continue and will place ever increasing demands on the City to provide necessary public facilities;

7) That to the extent that new development places demands on public facility infrastructure, those demands should be satisfied by shifting the responsibility for financing the provision of such facilities from the public at large to the developments actually creating the demands;

8) That the amount of the impact fee to be imposed shall be determined by the cost of the additional public facilities needed to support such development;

9) That the City Council, after careful consideration of the matter, hereby finds and declares that an impact fee imposed upon future development to finance public facilities, the demand for which is created by such development is in the best interest of the general welfare of the City and its residents, is equitable, does not impose an unfair burden on such development by forcing developers and builders to pay more than their fair share or proportionate share of the cost, and deems it advisable to adopt this ordinance as hereinafter set forth;

10) That there is a reasonable relationship between the amount of the impact fee and the cost of public facilities attributable to the development upon which the fee will be imposed because the fee is based only on the cost of providing the facilities necessary to serve the new development as discussed in the "Report." (Ord. 961(part), 2006).

5.05.020 Title and purpose

The provisions of Ordinance 961 shall be known as the "City of Rexburg Streets Development Impact Fee Ordinance." The purpose of these regulations is to prescribe the procedure whereby developers of land shall pay an impact fee as set forth in Ordinance 961 for the purpose of providing the public facilities and system improvements needed to serve future residents and users of such development. It is further the purpose of Ordinance 961 to:

1) Ensure that adequate facilities are available to serve new growth and development;

2) Promote orderly growth and development by establishing uniform standards by which the City may require that those who benefit from new growth and development pay a proportionate share of the cost of new public facilities needed to serve new growth and development;

3) Ensure that those who benefit from new growth and development are required to pay no more than their proportionate share of the cost of public facilities needed to serve new growth and development and to prevent duplicate and ad hoc development requirements;

4) Collect and expend development impact fees pursuant to the enabling powers granted by the provision of the Idaho Development Impact Fee Act, Title 67, Chapter 82, Idaho Code;

5) Provide the legal and procedural basis for the implementation of development impact fees within the area of city impact; and

6) Ensure that any capital improvement funded wholly or in part with impact fee revenue shall first be included in an approved capital improvements plan that lists the capital improvements that may be funded with impact fee revenues as well as the estimated costs and timing for each improvement. (Ord. 961, §01.010, 2007).

5.05.030 Definitions

As used in this chapter, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

1) Building Permit: The permit required for new construction and additions.

2) Capital Improvements: Improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a public facility, or service improvement.

3) Capital Improvements Plan: A plan adopted and amended pursuant to the provision of the Development Impact Fee Act, Idaho Code 67-8208 that identifies capital improvements for which development impact fees may be used as a funding source. The capital improvements plan is included as a part of the Development Impact Fee Report.

4) City: The City of Rexburg, a municipal corporation duly organized pursuant to the laws of the state of Idaho.

5) Development: Any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit, or manufactured/mobile home permit, which creates additional demand and need for public facilities.

6) Development Approval: Any written duly authorized document from the City that authorizes the commencement of a development.

7) Development Impact Fee: A payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) and Chapter 5.05.030 of this code. The term does not include the following:

    a) A charge or fee to pay the administrative, plan review or inspection cost associated with permits required for development;

    b) Connection or hookup charges;

    c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or

    d) Amounts collected from a developer in a transaction in which the City has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to Section 67-8209(3), Idaho Code, for credit or reimbursement.

8) Development Requirement: A requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

9) Extraordinary Costs: Those costs incurred as a result of an extraordinary impact.

10) Extraordinary Impact: An impact which is reasonably determined by the City to:

    a) Result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by Section 67-8214(2), Idaho Code;

    b) Result in the need for system improvements which are not identified in the Capital Improvements Plan;

    c) Have an impact which results in a lower than acceptable level of service.

11) Fee Payer: That person who pays or is required to pay a development impact fee.

12) Gross Floor Area: The sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics when not used for human occupancy, nor any floor space in an accessory building, carport, or the main building intended or designed for the parking of motor vehicles in order to meet any City parking requirement nor nonresidential facilities; arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

13) Impact Fee: See Development Impact Fee.

14) Land Use Assumptions: A description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

15) Level of Service: A measure of the relationship between service capacity and service demand for public facilities.

16) Manufactured Home: A structure, constructed according to HUD/FHA manufactured home construction and safety standards, transportable in one (1) or more sections, which:

    a) In the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or

    b) When erected on site, is three hundred twenty (320) or more square feet; and

c) Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and

d) Includes the plumbing, heating, air conditioning, and electrical systems contained therein;

e) Except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401, et seq.

17) Mobile Home: A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code).

18) Modular Building: Any building or building component, other than a manufactured / mobile home, which is constructed according to standards contained in the Uniform Building Code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

19) Present Value: The total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

20) Project: A particular development on an identified parcel of land.

21) Project Improvements: In contrast to system improvements, project improvements are site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and the convenience of the occupants or users of the project.

22) Proportionate Share: That portion of the cost of system improvements determined pursuant to Section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

23) Public Facilities: Means those types of improvements described in Idaho Code 50-1703, including but not limited to the following:

a) Circulation facilities, streets

b) Parks, open space and recreation areas, and related capital improvements; and

c) Public safety facilities, including law enforcement, fire, emergency medical and rescue.

24) Recreational Vehicle: A vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

25) Service Unit: A standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally

accepted engineering or planning standards for a particular public facility category (i.e. parks, law enforcement, fire, etc.) of capital improvements.

26) System Improvements: In contrast to project improvements, mean capital improvements to public facilities which are designed to provide service to a service area including and without limitation, the type of improvements described in Section 50-1703, Idaho Code.

27) System Improvements Costs: Costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in Section 50-1702 (h), Idaho Code, to provide additional public facilities needed to service new growth and development. For clarification, system improvement costs do not include:

    a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;

    b) Repair, operation or maintenance of existing or new capital improvements;

    c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

    d) Administrative and operating costs of the City unless such costs are attributable to development of the capital improvements plan, as provided in Section 67-8208, Idaho Code; or

    e) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the City to finance capital improvements identified in the capital improvements plan.

28) Unit(s) of Development: A quantifiable increment of development activity measured in terms of dwelling units, or other appropriate measurements contained in the impact fee schedule incorporated in the "Report." (Ord. 961, §1, 2006).

5.05.040 Application

1) The provisions of the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) and Chapter 5.05 of this code shall apply uniformly to all those who benefit from new growth and development except as provided below.

2) The provisions of the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) and Chapter 5.05 of this code shall not apply to the following:

    a) Rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe, providing the structure is rebuilt and ready for occupancy within two (2) years of its destruction;

b) Remodeling or repairing a structure that does not increase the number of service units;

c) Replacing a residential unit, including a modular building or manufactured / mobile home, with another residential unit on the same lot, provided that the number of service units does not increase;

d) Placing a temporary construction trailer or office on a lot;

e) Constructing an addition on a residential structure that does not increase the number of service units;

f) Adding uses that are typically accessory to residential uses, such as tennis courts or clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of system improvements;

g) Upon demonstration by fee payer by documentation such as utility bills and tax records, to the installation of a modular building, manufactured / mobile home or recreational vehicle on that same lot or space for which a development impact fee has been paid previously, and as long as there is no increase in service units.

3) An exemption must be claimed by the fee payer upon application for a building permit. Any exemption not so claimed shall be deemed waived by the fee payer. Applications for exemption shall be submitted to and determined by the City Clerk, or his or her duly designated agent, within ninety (90) days. Appeals of the City Clerk's, or his or her duly designated agent, determination shall be made under the provisions of §5.05.130 of this code entitled "Appeals." (Ord. 961, §2, 2006).

5.05.050 Collection of impact fees

1) The development impact fee shall be paid and collected at the time of issuance of a building permit or a manufactured/mobile home installation permit.

2) No building permit or other equivalent City approval shall be issued for development as herein defined unless the impact fee is paid pursuant to Chapter 5.05 of this code.

3) A manufactured / mobile home unit may not locate on a manufactured / mobile home site unless the impact fee is paid pursuant to Chapter 5.05 of this code or has been paid on a previous manufactured / mobile home unit on the same site.

4) In the event payment is dishonored, the City shall have all lawful remedies including but not necessarily limited to the withholding of utility services, the imposition of reasonable interest and penalties, the imposition of liens pursuant to Chapter 5, Title 45, Idaho Code, the withholding of other City approvals required for the development of other properties owned by the fee payer, and the issuance of "stop work" orders, and the revocation or suspension of the building permit. (Ord. 961, §3, 2006).

5.05.060 Capital improvement projects

The capital improvement projects to be financed by the impact fee are those as listed in the "Report," incorporated herein by reference along with all footnotes, exhibits, appendices, and other attachments referenced. (Ord. 961, §4, 2006).

5.05.070 Calculation of impact fee

1) The City shall calculate the amount of the impact fee due for each building permit and manufactured / mobile home installation permit by the procedure set forth in the "Report".

2) The calculation of a development impact fee shall be in accordance with generally accepted accounting principles. A development impact fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or developers within the service area other than the person paying the fee.

3) A development impact fee shall be calculated on the basis of the Performance Standard for public facilities adopted in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code and in the "Report" that are applicable to existing development as well as new growth and development. The construction, improvement, expansion or enlargement of new or existing public facilities for which a development impact fee is imposed must be attributable to the capacity demands generated by the new development.

4) If the development for which a building permit is sought contains a mix of uses, the impact fee will be calculated for each type of use.

5) Certification: Prior to making an application for a building permit or manufactured / mobile home installation permit, a prospective applicant may request in writing a written certification of the development impact fee schedule or individual assessment for a particular project which shall establish the development fee for a period of one (1) year from the date of certification. The certification shall include an explanation of facilities considered under Section 67-8207, Idaho Code. The certification shall specify the system improvement(s) for which the impact fee is intended to be used.

6) Individual Assessment: Individual assessment of impact fees is permitted in situations where the fee payer can demonstrate by clear and convincing evidence that the established impact fee is inappropriate.

    a) Individual assessments of development impact fees may be made by application to the City Clerk, or his or her duly designated agent, prior to receiving building permits manufactured / mobile home installation permits, or other necessary approvals from the City. The City Clerk, or his or her duly designated agent, shall evaluate such individual assessments under the guidelines provided for in §5.05.070.6.d. If the guidelines are met, the individual assessment shall be approved by the City Clerk, or his or her duly designated agent. Any decision regarding a request for an individual assessment shall be provided in writing to the applicant and a copy of said decision, along with supporting

documentation, shall be provided to the City Council within thirty (30) days of the decision.

b) Late applications for individual assessments may be submitted within thirty (30) days after the receipt of a building permit only if the fee payer makes a showing that the facts supporting such application were not known or discoverable prior to receipt of a building permit and that undue hardship would result if said application is not considered.

c) The City Clerk, or his or her duly designated agent, shall render a written decision regarding the individual assessment and forward it to the City Council within thirty (30) days of the date a complete application is submitted. The decision of the City Clerk, or his or her duly designated agent, shall establish the impact fee for the project in question for a period of one (1) year from the date said decision becomes final.

d) The City Clerk, or his or her duly designated agent, shall evaluate an application for individual assessment and may approve the same if fee payer has shown by clear and convincing evidence that the established impact fee is inappropriate and that the following facts and conditions exist.

   i) Exceptional or extraordinary circumstances or conditions apply to the development that does not apply generally to other properties in the vicinity of the development.

   ii) An individual assessment is necessary for the reasonable and acceptable development of the property.

   iii) The approval of the individual assessment will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the development is located.

   iv) The approval of the individual assessment will not adversely affect the capital improvement plan for the City.

e) Appeals to the City Clerk, or his or her duly designated agent, determination of individual assessment shall be made to the City Council by the filing of an appeal with the City Clerk within thirty (30) days of the date of mailing, faxing, or personal delivery of written notice of the decision of the City Clerk, or his or her duly designated agent. Final determination regarding the appeal of individual assessments shall be made by the City Council. (Ord. 961, §5, 2006).

5.05.080 General methodology of calculation

1) The amount of the impact fee shall be calculated using the methodology contained in the "Report."

2) A development impact fee shall not exceed a proportionate share of the cost of system improvements determined in accordance with Section 67-8207, Idaho Code. Development

impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.

3) A developer shall have the right to elect to pay a project's proportionate share of system improvement costs by payment of development impact fees according to the fee schedule as full and complete payment of the development project's proportionate share of system improvement costs, except as provided in Section 67-8214(3), Idaho Code. The schedule of development impact fees for various land users per unit of development shall be as set forth in the "Report."

4) Proportionate Share Determination:

   a) All development impact fees shall be based on a reasonable and fair formula or method under which the development impact fee imposed does not exceed a proportionate share of the costs incurred or to be incurred by the City in the provision of system improvements to serve the new development. The proportionate share is the cost attributable to the new development after the City considers the following:

      i) Any appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements;

      ii) Payments reasonably anticipated to be made by or as a result of a new development in the form of user fees, debt service payments, or taxes which are dedicated for system improvements for which development impact fees would otherwise be imposed; and

      iii) All other available sources of funding such system improvements.

   b) In determining the proportionate share of the cost of system improvements to be paid by the developer, the following factors shall be considered by the City:

      i) The cost of existing system improvements within the service area or areas;

      ii) The means by which existing system improvements have been financed;

      iii) The extent to which the new development will contribute to the cost of system improvements through taxation, assessments, or developer or landowner contributions, or has previously contributed to the cost of system improvements through developer or landowner contributions.

      iv) The extent to which the new development is required to contribute to the cost of existing system improvements in the future.

      v) The extent to which the new development should be credited for providing system improvements, without charge to other properties within the service area or areas;

      vi) Extraordinary costs, if any, incurred in serving the new development;

vii) The time and price differential inherent in a fair comparison of fees paid at different times; and

viii) The availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The City shall develop a plan for alternative sources of revenue, which shall include but not necessarily be limited to plans generated during the City's annual budget process, lobbying efforts, tax increment financing, implementation of user fees and various forms of utilities. (Ord. 961, §6, 2006).

5.05.090 Inflationary adjustment for impact fee

The City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) provides for an automatic annual adjustment to the impact fee based on the Constructions Materials index for Seattle. The adjustment may increase or decrease the impact fee depending on the value of the index for that year. The inflationary adjustment will be capped at 2.5% each year. The annual effective date of this fee adjustment shall coincide with the beginning date of the City's annual budget. (Ord. 961, §7, 2006).

5.05.100 Administration of impact fee

1) Transfer of funds to City Finance Officer: Upon receipt of impact fees, the City Finance Officer, or his or her duly designated agent, shall be responsible for placement of such funds into separate accounts as hereinafter specified. All such funds shall be deposited in interest-bearing accounts, within the Capital Projects Fund, in a bank authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.

2) Establishment and maintenance of accounts: The City Finance Officer, or his or her duly designated agent, shall establish separate accounts and maintain records for each such account whereby impact fees collected can be segregated.

3) Maintenance of records: The City Finance Officer, or his or her duly designated agent, shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; that shall account for all monies received; that shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program; and that shall provide an annual accounting for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

4) Development impact fees shall only be spent for the public facility category (i.e. streets, parks, law enforcement, fire, etc.) of system improvements for which the fees are collected and either within or for the benefit of the service area in which the project is located.

5) Review and modification: Unless the City Council deems some other time period is appropriate, the City shall at least once every five (5) years commencing from the date of the original adoption of the capital improvement plan, review the development potential of the

area and update the capital improvements plan in accordance with the procedures set forth in Idaho Code Section 67-8206. The City may make any updates as are deemed necessary as a result of (1) development occurring in the prior year; (2) capital improvements actually constructed; (3) changing facility needs; (4) inflation; (5) revised cost estimates for capital improvements; (6) changes in the availability of other funding projects; and (7) such other factors as may be relevant.

6) The City shall annually adopt a capital budget.

7) As part of its annual audit process, the City shall prepare an annual Report describing the amount of all development impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area.

8) All other requirements of Idaho Code 67-8210, regarding earmarking and expenditure of collected development impact fees, shall apply. (Ord. 961, §8, 2006).

5.05.110 Credits and reimbursement

1) In the calculation of development impact fees for a particular project, credit or reimbursement shall be given for the present value of any construction of system improvements or contribution or dedication of land or money required by the City from a developer for system improvements of the public facility category (i.e. parks, police, circulation) for which the development impact fee is being collected. Credit or reimbursement shall not be given for project improvements unless those improvements are identified in the "Report" as a system improvement. In that event, the credit given will only be given for those project improvements that are specifically listed in the "Report" and not for any portion of the improvements that would otherwise be required by zoning, subdivision, or other city regulations.

2) If a developer is required to construct, fund or contribute system improvements in excess of the development project's proportionate share of system improvement costs, the developer shall receive a credit on future impact fees or be reimbursed at the developer's choice for such excess construction, funding or contribution from development impact fees paid by future development which impacts the system improvements constructed, funded or contributed by the developer(s) or fee payer. If a credit for the payment of future impact fees is requested, the credit shall be given only for the public facility category that received system improvements in excess of the development's proportionate share.

3) If credit or reimbursement is due to the developer pursuant to this section, the City shall enter into a written agreement, with the fee payer, negotiated in good faith, prior to the construction, funding, or contribution. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement.

4) Any person requesting such credit or reimbursement shall submit their request in writing on a form provided by the City and present documentation of costs or payments for facilities to the City Public Works Director or his or her duly designated agent prior to issuance of a building permit or manufactured / mobile home installation permit. The determination shall

be made no more than forty-five (45) days after complete documentation is submitted to the City Public Works Director or his or her duly designated agent. Any appeal from such a determination by the City Public Works Director, or his or her duly designated agent, shall be pursuant to §5.05.130 of this code. (Ord. 961, §9, 2006).

5.05.120 Refunds

1) The current owner or contract purchaser of property on which an impact fee has been paid may request a refund of such fee if:

   a) Service is available but never provided;

   b) The project for which a building permit has been used has been lawfully altered resulting in a decrease in the amount of the impact fee due; or

   c) The City, after collecting the fee when service is not available, has failed to appropriate and expend the collected development impact fees pursuant to Section 67-8210(4) Idaho Code.

   d) A building permit or permit for installation of a manufactured / mobile home is denied or abandoned.

2) The request for refund must be filed in writing and submitted to the City Clerk or his or her duly designated agent on a form provided by the City for such purpose. The Owner shall provide such documentation as the City Clerk, or his or her duly designated agent, may require proving such satisfaction, reconveyance, or releases from contract sellers, mortgagees, lien holders, and / or others having an interest in the real property for which an impact fee has been paid.

3) A request for refund must be filed within the time allowed by law.

4) Within ninety (90) days of the date of receipt of a request for refund, the City Clerk or his or her duly designated agent must provide the owner, in writing, with a decision on the refund request including the reasons for the decision. If a right to refund exists, the City is required to send a refund to the owner of record within ninety (90) days after it is determined that a refund is due. A refund shall include a refund of interest at one-half (½) the legal rate provided for in Section 28-22-104, Idaho Code.

5) Owner may appeal the determination of the City Clerk, or his or her duly designated agent, to the City Council pursuant to the provisions in §5.05.130 of this code. (Ord. 961, §10, 2006).

5.05.130 Appeals

1) A developer or fee payer may appeal the written determination of the applicability and amount of the development impact fee, or refund, or any discretionary action or inaction by or on behalf of the City to the City Council.

2) The developer or fee payer must file a notice of appeal to the City Council with the City Clerk within thirty (30) days following the written determination, discretionary action, or inaction. When filing an appeal, the fee payer shall submit a letter providing a full explanation of the request, the reason for appeal, as well as all supporting documentation.

3) The filing of an appeal shall not stay required payment of the impact fee, however, a fee payer can pay a development impact fee under protest in order to obtain development approval or building permit.

4) Upon voluntary agreement by the fee payer and the City, any disagreement related to the impact fee for the proposed development may be mediated by a qualified independent party.

    a) Mediation may take place at any time during the appeals process and participation in mediation does not preclude the fee payer from pursuing other remedies provided for in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) and Chapter 4.14 of this code.

    b) The fee payer and the City shall share mediation costs equally. (Ord. 961, §11, 2006).

5.05.140 Extraordinary impacts

In determining the proportionate share of the cost of system improvements to be paid by the developer, the City Clerk or his or her duly designated agent shall consider whether any extraordinary costs will be incurred in serving the development based upon an extraordinary impact as defined in §5.05.030 of this code. This determination shall be made prior to issuance of any permit for development and shall be paid prior to any such issuance except as may be provided pursuant to a private agreement between the parties as authorized by Idaho Code Section 67-8214.

If the City Clerk or his or her duly designated agent determines that the development will result in an extraordinary impact, it shall advise the fee payer in writing what the extraordinary impact is, the reason for the extraordinary impact, and the estimated costs to be incurred as a result of the extraordinary impact.

Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall obligate the City to approve any development that results in extraordinary impact.

The fee payer may appeal the determination of an extraordinary impact or the amount of extraordinary costs incurred in writing by filing a notice of appeal to the City Council with the City Clerk pursuant to the terms set forth in Section 11 of Ordinance 961 or §5.05.130 of this code, entitled “Appeals.” When filing an appeal, the fee payer shall submit a letter providing the reason for the appeal along with supporting documentation. The City Council shall consider the appeal and make a final determination within ninety (90) days of receipt of the written appeal. (Ord. 961, §12, 2006).

5.05.150 Streets Development Impact Fee Report

Addendum "A" entitled "Streets Development Impact Fee Report" dated July 05, 2006, along with all footnotes, exhibits, appendices, and other attachments referenced therein, all of which are by this reference incorporated herein as if set forth fully. A description of acceptable levels of service for system improvements is described in the "Report." (Ord. 961, §13, 2006).

The "Report" is herein incorporated into this code as Appendix 7.

5.05.160 Bonding

Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for such projects may include impact fees and other city revenues as may be allocated by the City Council. (Ord. 961, §14, 2006).

5.05.170 Effects of impact fee on zoning and subdivision regulations

The City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development. (Ord. 961, §15, 2006).

5.05.180 Other powers and rights not affected

1) Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall prevent the City from requiring a developer to construct reasonable project improvements in conjunction with a development project.

2) Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall be construed to prevent or prohibit private agreements between property owners and developers, the Idaho Transportation Department, the City, and other governmental entities in regard to the construction or installation of system improvements or providing for credits or reimbursements for system improvement costs incurred by a developer including inter-project transfers of credits or providing for reimbursement for project improvements which are used or shared by more than one (1) development project. If it can be shown that a proposed development has a direct impact on a public facility under the jurisdiction of the Idaho Transportation Department, then the agreement shall include a provision for the allocation of impact fees collected from the developer for the improvement of the public facility by the Idaho Transportation Department.

3) Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall obligate the City to approve development that results in an extraordinary impact. Extraordinary impacts shall be determined and processed pursuant to §5.05.140 (Ordinance 961, §12).

4) Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall obligate the City to approve a development request that may reasonably be expected to reduce levels of service below minimum acceptable levels established in the development impact fee ordinance. To this end, the City may impose a development impact fee for system improvement costs incurred subsequent to adoption of the ordinance to the extent that new growth and development will be served by the system improvements.

5) Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall be construed to create any additional right to develop real property or diminish the power of the City in regulating the orderly development of real property.

6) Nothing in the City of Rexburg Streets Development Impact Fee Ordinance (Ordinance 961) or Chapter 5.05 of this code shall work to limit the use by the City of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.

7) Nothing herein shall restrict or diminish the power of the City to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of project or system improvement costs required as a result of such voluntary annexation. (Ord. 961, §16, 2006).

5.05.190 The Report

Ordinance 961, the City of Rexburg Streets Development Impact Fee Ordinance, reads, "Addendum 'A' entitled 'Streets Development Impact Fee Report' dated July 05, 2006, along with all footnotes, exhibits, appendices, and other attachments referenced therein, all of which are by this reference incorporated herein as if set forth fully. A description of acceptable levels of service for system improvements is described in the 'Report.'" The "Report" is herein incorporated into this code as Appendices 7A – 7I. (Ord. 961, §13, 2006).

TITLE 6 BUSINESS REGULATIONS

Title 6 sets forth the registration and licensing procedures, regulations and requirements necessary for the legal operation of businesses within the City's corporate limits.

For statutory provisions authorizing cities to license occupations and businesses and to regulate same by ordinance, see Idaho Code §50-307. For provisions authorizing the licensing and regulation of amusements, see Idaho Code §50-308.

CHAPTER 6.01 BUSINESS LICENSES

6.01.010 Scope

1) The provisions of this chapter apply to all business licenses of the city, except where an ordinance concerning a particular business contains a specific provision to the contrary, in which case the specific provision shall apply.

2) A further purpose of this chapter is to provide one document covering all license fees and investigation fees or processing fees connected with the issuance or renewal of licenses for any business licensed by the city. The fees provided in this chapter shall apply in place of any earlier provision in any other ordinance. The fees and charges for businesses or operations not listed in this chapter shall be as stated in the specific ordinances or parts of ordinances relating to those businesses or operations. (Ord. 709 §1, 1990).

6.01.020 Definitions

As used in this chapter and in any ordinance regulating business or requiring a license for the operation of a business, the following terms shall have the following meanings, except where the context clearly indicates that a different meaning is intended and except where an ordinance concerning a particular business contains a specific provision to the contrary:

1) Adult: means any person eighteen years of age or older.

2) Approved: means complying with all applicable state laws and city ordinances. The word "approved" does not give any city officer or employee discretion to fail to approve any item or method, except for failure to comply with applicable city ordinances and state laws.

3) Child: means any person under the age of eighteen years, provided that provisions relating to sale of liquor may refer to persons under the age of twenty-one years, and other ordinances may refer to persons of younger ages.

4) City: means the city of Rexburg, Idaho.

5) City Officer. When duties and responsibilities are given to any city officer such as the city clerk or the chief of police, the duties may be performed by the named officer or any city officer or employee under that officer's supervision, if that city officer or employee has been

assigned by his superior to perform the duties in question. Duties concerning drafting regulations, drafting forms or making recommendations to the governing body of the city are not to be delegated. Duties concerning administrative appeals are not to be delegated.

6) Clerk: means the city clerk.

7) Dangerous: means not safe. See "safe."

8) License appeal: means an appeal in accordance with city ordinances relating to license appeals.

9) License year: means the period for which business licenses are issued. In the absence of a specific provision to the contrary relating to a particular business, the license year is from January 1st to December 31st of the following year.

10) Minor or minor child: has the same meaning as child. See "child."

11) Person: means an individual or a corporation, firm, partnership, association or business entity.

12) Safe: means having no defect in design, materials, workmanship, method of installation or method of normal use which creates a hazard to any person or property. (Ord. 709 §4, 1990).

6.01.030 Types of fees

The following are the types of fees that are covered by this chapter:

1) A license fee, paid by the operator of the business for the issuance of the license;

2) A nonrefundable investigation fee, covering the cost of investigating to determine whether the applicant is eligible for a license. This type of fee shall be charged only in instances specified in this chapter or in any other applicable ordinance. This fee shall be in addition to the license fee;

3) A nonrefundable processing fee, covering the cost of processing an application. This type of fee shall be charged only in instances specified in this chapter or in any other applicable ordinance. This fee shall be in addition to the license fee. (Ord. 709 §2, 1990).

6.01.040 License fees

From and after January 1, 1994, business license fees shall be reviewed annually and any changes shall be made by resolution of the council. Any license fee not covered by Schedule A attached to Ordinance No. 709 shall have fees set by the mayor and city council in each individual situation. (Ord. 745 §1, 1993: Ord. 709 §1, 1990).

6.01.050 Fee payment required

No person shall operate any business for which a license fee is established by this chapter until and unless the license fee has been paid on behalf of that business. No business license shall be issued until after the payment of the fee required by this chapter. No license shall be issued until any applicable investigation fee or processing fee has been paid. All license fees, investigation fees and processing fees shall be paid in to the city treasurer. To the extent permitted by the budget, investigation fees and processing fees may be spent on behalf of the offices or departments actual ly making the investigations or processing the applications in question. (Ord. 709 §10, 1990).

6.01.060 Application

1) Issuance. In the absence of a provision to the contrary, applications for business licenses shall be made to the city clerk. Forms shall be supplied by the clerk. No license shall be issued until all appropriate fees required by ordinance have been paid. If all required information is supplied, the required fees have been paid and it does not appear that any applicable state law or city ordinances will be violated by the operation of the business, the license shall be issued. The city clerk or other person responsible for processing license applications shall provide assistance in filling out license application forms to any person asking for assistance.

2) Sworn Statements. Wherever any city ordinance requires a "sworn" statement or application relating to any business, the person making the statement may make the statement either under oath or under affirmation to tell the truth. (Ord. 709 §§5, 14, 1990).

6.01.070 Term of license

1) License Year. Except where otherwise specifically provided in connection with a business, the license year shall run from January 1st until December 31st of the same year. No person, firm or corporation may continue to operate a business after the expiration of the license unless an application has been made for a new license and a new license has been issued.

2) License for Less than a Year. If a business or operation is started after the middle of the license year, the fee for the license shall be one-half of the annual fee, in the absence of a specific provision to the contrary. (Ord. 709 §§8, 9, 1990).

6.01.080 Administrative appeals

Any person aggrieved by any decision relating to the issuance of a license may file an administrative appeal in the manner provided by ordinance. (Ord. 709 §7, 1990).

6.01.090 Recordkeeping

Nothing in any city ordinance shall be deemed to prohibit the city clerk from using computers to organize information concerning licenses, or to store or process such information. The clerk shall, however, have at least one written record, on paper, of each license application and of each license issued, organized in such a way that, if necessary, a manual search could retrieve information by the names of licensees. (Ord. 709 §6, 1990).

6.01.100 Number limitations

In the absence of a specific provision to the contrary, no ordinance is to be interpreted as limiting the number of licenses that may be issued or as limiting the number of business enterprises of any particular kind that may be operated in the city. No city officer or employee may refuse to issue a license because of the officer or employee's belief that there are enough of a particular type of business in the city already. (Ord. 709 §11, 1990).

6.01.110 Duty to issue

No city ordinance relating to business licenses shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or to refuse to issue a business license. Licenses shall be issued to each applicant complying with all applicable state laws and city ordinances, and licenses shall be refused for any applicant failing to comply with all such applicable laws and ordinances. (Ord. 709 §16, 1990).

6.01.120 Fire extinguishers

Each business shall have at least one fire extinguisher on the premises. This is required not only for fires that may originate in the business but also for use for any nearby fire in a vehicle or other place. All such fire extinguishers shall be kept charged and ready to use, in an accessible location known to all employees on the premises. (Ord. 709 §12, 1990).

6.01.130 Inspections

Any business in the city may be inspected by city officers and employees authorized to enforce provisions of ordinances relating to that business. In the absence of an emergency and in the absence of sound reasons whereby an inspection cannot be made during regular business hours, inspections shall be made during normal business hours. Immediately upon arriving at a place of business for the purpose of making an inspection, the city officer or employee making the inspection shall identify himself or herself and shall state that the purpose of the visit is to make an inspection. No person having control of any business premises shall refuse to permit a city officer or employee to enter for the purpose of making an inspection. If entry is refused, the city officer or employee shall leave and seek a search warrant or other appropriate court order, to gain entry. (Ord. 709 §13, 1990).

6.01.140 Alternative methods

When any city ordinance requires a business to use a particular procedure or material for health or safety reasons, an alternative procedure may be proposed by the person, firm or corporation operating the business. If the city clerk finds that the alternative proposal has been proven to provide at least equal safety and at least equal protection to public health as the method or material required by ordinance, the alternative shall be approved. The burden of proof is on the person advocating the alternative. After approval of the alternative, other persons in the same business may continue to use the method authorized by the ordinance or the alternative method, at the option of the person operating the business. The city officer approving the alternative shall report the matter to the governing body of the city, for consideration of amendments to the ordinance. Any person aggrieved by a refusal to approve an alternative method or material may

call the matter to the attention of the governing body of the city and request an amendment to the ordinance. (Ord. 709 §15, 1990).

6.01.150 Fake repairs prohibited

No person doing business anywhere in the city shall charge for any repair or maintenance work on any vehicle or other device or thing, unless such repair or maintenance work has in fact been done. (Ord. 709 §17, 1990).

6.01.160 Violation – Penalty

Any person, firm or corporation violating any provision of this chapter, or of any ordinance relating to licensing, where no other penalty is provided, shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense. Any person violating any such provision may in addition to a fine or in lieu of a fine be imprisoned for not more than six months. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 709 §18, 1990).

CHAPTER 6.02 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

6.02.010 Definitions

As used in this article:

1) Peddler: means any person, whether a resident of the city or not, traveling by foot, motor vehicle or any other type of conveyance, however propelled, drawn, pushed or moved, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, merchandise, food or farm products or provisions, offering and exposing the same for sale or making sales and delivering articles to purchasers, or who, without traveling from place to place shall sell or offer the same for sale from a wagon, vehicle, railroad car, or any other type of conveyance. The word "peddler" shall include the words "hauler" and "hucksters."

2) Solicitor or Canvasser: means an individual, whether resident of the city or not, traveling either by foot, motor vehicle or any other type of conveyance, from place to place, from house to house or from street to street, taking or attempting to take, whether in person or by telephone, orders for sale of goods, wares and merchandise, personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether he is collecting advance payments on such sales or not. Such definitions shall include any person who, for himself, or for another person hires, leases, uses or occupies any building, structure, tent, railroad boxcar, boat, hotel room, lodging house, apartment, shop or any other place within the city for the sole purpose of exhibiting samples and taking orders for future delivery.

3) Temporary: means thirty days or less.

4) Transient merchant, itinerant merchant, itinerant vendor: means any person, whether owner or otherwise, whether a resident of the city or not, who engages in a temporary business of

selling and delivering goods, wares, and merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any building structure, motor vehicle, tent, railroad boxcar, public room in a hotel, lodging house, apartment, shop, or any street or other place within the city for the exhibition and sale of such goods, wares and merchandise. (Ord. 707 §1, 1990).

6.02.020 License required

It is unlawful for any peddler, solicitor or canvasser, transient merchant, itinerant merchant or itinerant vendor as the same are defined in this chapter, to engage in such business within the corporate limits of the city without first obtaining a license therefore in compliance with the provisions of this chapter. (Ord. 707 §2, 1990).

6.02.030 Exceptions

The provisions of this chapter shall not apply to:

1) Any sales under court order;

2) A bona fide auction sale;

3) Traveling salespersons, commercial travelers or the like who exclusively or primarily sell to, or solicit orders for future delivery, from local retailers, local businesses, local governments, local schools, or local wholesale firms;

4) The sale of farm or garden products by the person producing the same;

5) The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;

6) Contribution solicitation where the person being solicited to contribute personally knows the identity of the person soliciting the contribution, the name of the group or organization he represents, and the nature of the services performed or offered by the group or organization;

7) The occasional sale of admission by local school students to a function of their school, or fundraising sales by local service clubs or groups such as Elks, Kiwanis, Lions, Boy or Girl Scouts, etc.;

8) Any political group seeking funds or membership;

9) Garage, yard, or similar sales by individuals at their residence or place of business not exceeding twice in one calendar year, which sales shall not include business inventory;

10) Any solicitation of information for a telephone book or a city directory by a company representative;

11) Any organization exempt from taxation as provided by 26 U.S.C. 501 and meeting all the requirements for the exemptions provided by 26 U.S.C. 503;

12) A sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location in the county where goods or services are offered or exhibited for sale;

13) A sale of goods, wares, merchandise and personal property of any nature whatsoever for resale to or by a business establishment at a fixed location where goods or services are offered or exhibited for sale;

14) A sale of services to be furnished or performed in the future to or by a business establishment at a fixed location in the county. (Ord. 707 §3, 1990).

6.02.040 License application

Applicants for a license under the provisions of this chapter must file with the city clerk an application furnished by the city clerk, which shall contain, but not necessarily be limited to, the following information:

1) Name and description of the applicant; if the applicant is an association, company or corporation, then it shall state its name along with the names and descriptions of the persons who will be soliciting in the city;

2) Address, both legal and local;

3) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;

4) If employed, the name and address of the employer, together with credentials establishing the exact relationship between the employer and the applicant;

5) The length of time for which the right to do business is desired;

6) If a vehicle is to be used, a description of the name, together with license number or other means of identification;

7) Has a permit or license to the applicant been revoked during the past five years, and if so, where and when;

8) Proposed method of operation;

9) Social security number and/or driver's license number of applicant and birth date of applicant;

10) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal laws, the nature of the offense and the date, and the punishment or penalty assessed therefore;

11) The place where the goods or property proposed to be sold, or orders taken for the sale thereof, are manufactured or produced, where such goods or products are located at the time said application is filed, the proposed method of delivery, and also written permission from the property owner where the goods or property are to be sold;

12) A two-inch by two-inch photograph of the applicant, showing the head and shoulders of the applicant in a clear and distinguishable manner;

13) Except as provided in Section 6.02.060, at the time of filing an application an investigation fee shall be paid to the city clerk according to Appendix 1;

14) No license issued hereunder shall be transferable. (Ord. 707 §4, 1990).

6.02.050 Issuance investigation

1) Up-on receipt of such application, or application for renewal, the city clerk shall refer it to the chief of police, who shall cause an investigation to determine validity and completeness of the information presented on the application. The chief of police shall endorse upon the application the findings of the investigation and return it to the city clerk within five working days; provided, where application for renewal of a license is involved, and the city clerk has received no complaint or allegation of any violation of this chapter or other laws by the applicant, the city clerk may waive payment of the investigation fee and issue the renewal license, upon payment of the license fee, without referral of the application to the chief of police.

2) If the applicant or his employer has been convicted of any crime, misdemeanor or violation of any municipal laws, except for minor traffic violations, in the previous five years, or if the applicant has made a false statement on the application, then it shall be disapproved.

3) The city clerk shall notify the applicant whether his license request is approved and upon payment of the prescribed license fee, shall issue a license. Such license shall show the name, address, photograph of licensee, the type of license issued, and the kind of goods to be sold or type of sales to be solicited thereunder, the amount of fee paid, the date of issuance and the date of expiration.

4) The city clerk shall notify the applicant if his license request is disapproved, the reasons therefore, and advise him of the appeal procedure. (Ord. 707 §5, 1990).

6.02.060 License fees

The license fee for any peddler, solicitor or canvasser, or transient merchant shall be set according to Appendix 1. All fees shall be paid in advance. (Ord. 707 §6, 1990).

6.02.070 License exhibition

The license issued to the licensee hereunder by the city clerk shall be exhibited in a conspicuous place if the licensee is using a vehicle or a building in his business and otherwise must be kept by the person and exhibited at any time upon request. (Ord. 707 §8, 1990).

6.02.080 License renewal

Licenses which are not renewed for a minimum of any six quarters within the two-year period from the date of the original issue shall be, upon application for renewal, treated as an original application. (Ord. 707 §12, 1990).

6.02.090 Licenses expiration

All licenses issued under the provisions of this chapter shall expire on the date specified in the permit. No license shall be issued for a period longer than one year. (Ord. 707 §13, 1990).

6.02.100 Bonds

1) Before any license as provided in this chapter shall be issued for engaging in the business of peddler, solicitor or canvasser, or transient merchant as defined in this chapter, every applicant plying his trade as an individual shall file with the city clerk a surety bond running to the city or a cashier's check in the amount of five hundred dollars. Every business, firm, company or corporation, which has one or more employees or agents acting in the capacity of peddler, solicitor, canvasser or transient merchant, shall file with the city clerk a surety bond covering all such employees or agents and running to the city or a cashier's check in the amount of five hundred dollars for each employee and/or agent.

2) Every bond for those engaging in a business as a peddler, solicitor or canvasser, or transient merchant as defined in this chapter shall be executed by the applicant as principal and at least one surety upon which service of process may be made in the state, the bond to be approved by the city attorney, conditioned that the applicant and all of the applicant's agents and employees, shall comply fully with all of the provisions of this chapter.

3) Based upon written justification and letters of reference from local citizens, local business firms, local companies or local corporations, or being licensed for one year, the above bonding requirements may be waived when specifically approved by the city council.

4) Action on the surety bond or cashier's check may be brought directly by any person damaged by a licensee's violation of any provision of this chapter.

5) After expiration of a license, the city clerk shall, upon application of the licensee, return the bond or cashier's check six months after receipt of application for return, unless the clerk has been notified of the pendency of any claim or cause of action by any person upon the bond or cashier's check. (Ord. 707 §7, 1990).

6.02.110 Unlawful conduct

No licensee hereunder shall:

1) Make physical contact with the person being solicited unless that person's permission is obtained;

2) Misrepresent the purpose of the solicitation;

3) Misrepresent the affiliation of those engaged in the solicitation;

4) Continue efforts to solicit from an individual once that individual informs the solicitor that he does not wish to give anything to or to buy anything from that solicitor;

5) Represent the issuance of any license under this chapter as an endorsement or recommendation of the solicitation;

6) Enter upon any premises when the same is posted with a sign stating "No Peddlers Allowed" or "No Solicitation Allowed" or other words to such effect;

7) Knowingly make any false statement on an application for a license hereunder;

8) Fraud, misrepresentation or false statement made in the course of carrying on the business. (Ord. 707 §10, 1990).

6.02.120 Location restrictions

No licensee hereunder shall have any exclusive right to any location in a public street, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced. No business activity shall be carried on in any area of the city by any licensee who is licensed pursuant to this chapter, where such business activity is prohibited by the city zoning code. (Ord. 707 §9, 1990).

6.02.130 Enforcement

It shall be the duty of any police officer of the city to enforce this chapter. The chief of police shall report to the city clerk all violations of this chapter. (Ord. 707 §11, 1990).

6.02.140 Violation – Penalty

Any person, business, firm, company or corporation who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed three hundred dollars, or by imprisonment in the county jail for a period not to exceed thirty days or both such fine and imprisonment. Each day or violation continued shall be separate offenses, punishable as hereinabove described. (Ord. 707 §14, 1990).

CHAPTER 6.03 BEER SALES*

*Note to Chapter 6.03: For statutory provisions requiring a municipal license as a condition precedent to the retail sale of beer within a city, see Idaho Code §§23-1009 and 23-1016. For provisions covering beer generally, see Idaho Code Ch. 23-10. For statutory provisions requiring persons licensed to sell beer to close between one a.m. and seven a.m. every day, see Idaho Code §23-1012. For statutory provisions concerning the sale of beer to minors or the procurement of beer for minors, see Idaho Code §§23-1013 and 23-1023 et seq.

6.03.010 Definitions

As used in this chapter, the words "beer," "person" and "retailer," and other words used in connection with the subject matter of this chapter, shall have the same meanings as are given such words in the laws of Idaho relating to and controlling the sale of beer, and particularly in

Idaho Code Ch. 23-10 and amendments thereof; and the words "draught beer" as used in this chapter shall mean and include any and all beer drawn or poured from the container thereof by the vendor, or with his consent, for consumption of same on the premises when sold; and the words "council" and "city council" as used in this chapter shall mean the city council of the city of Rexburg. (Ord. 341 §1, 1940).

6.03.020 License requirements

It is unlawful for any person as a retailer to sell, deliver, distribute or otherwise furnish or dispose of or offer for sale, or keep or have in his possession for sale, delivery or other disposition, any beer, within the city limits, except for his own consumption or the consumption of his family or guests, without first paying the tax and obtaining the license provided for in this chapter. (Ord. 341 §2, 1940).

6.03.030 Issuance conditions generally – County license prerequisite

1) No license shall be issued to any applicant to engage in the sale of beer as a retailer within the city until the tax has been paid, and the application of such applicant shall have been approved by the city council, and an order entered on the journal of the proceedings of the council directing the issuance of such license; and before ordering the issuance of any license under the provisions of this chapter the city council shall examine into the character and reputation of the applicant and of the place where he proposes to engage in business as a retailer; and the city council may refuse to grant a license to any person who, in their judgment, may not be a fit or proper person to conduct the business of selling beer at retail in the city; or, if the place where the applicant proposes to carry on such business is not a suitable or orderly place.

2) Also, no license shall be issued to any person to engage in business in the city as a retailer of beer unless such person shall have first obtained a county license from the board of county commissioners of Madison County, as provided by the laws of the state, nor shall any license issue to any person whose county license shall have been revoked; and if the county license of any retailer shall be revoked after obtaining a license under this chapter, such revocation shall be sufficient ground for revoking any license issued to such retailer under this chapter. (Ord. 341 §5, 1940).

6.03.040 Issuance prohibited to nonresidents

No license to sell beer at retail within the city shall be issued to any person who is not an actual or bona fide resident of the city; and no license shall be issued to any corporation to sell beer within the city which does not have a regularly established place of business in the city. (Ord. 341 §11, 1940).

6.03.050 Issuance prohibited to premises lacking direct access to public street

No license shall be granted to sell beer at retail within the city in any room or rooms in any second or third story of any building or in any basement room or cellar, or in any room or rooms not in the first story or upon the ground floor of any building; and no beer shall be sold in any room or place which does not have a direct and immediate entrance from a public street, nor in

any room or rooms having any connection whatsoever with a place where dancing is engaged in. (Ord. 341 §8, 1940).

6.03.060 Issuance prohibited to premises in certain locations

No license shall be issued to any person to sell or distribute draught beer, or bottled or canned beer to be consumed on the premises where sold or delivered, in any residential district or section of said city chiefly occupied by residences. Such licenses may be issued to retailers to sell or deliver such beer, in retail trade, only in that part of said city, hereinafter described and designated the business section. No license shall be issued to any retailer to sell or deliver draught beer, or bottled or canned beer to be consumed on the premises where sold, at or in any place or room within the distance of two hundred feet from the county court house, or the Rexburg city building, or any public library, schoolhouse, room or place in which any kind of instruction or training is given to classes of children of legal school age (as defined by the laws of Idaho), or place provided for high school or college students to assemble for receiving instruction or training of any kind, or any school or college dormitory; or within two hundred feet of any church, or church building, or any public park or playground, or any public campground, or premises where any camp cabins or cottages for housing or accommodation of tourists or travelers are maintained. (Ord. 341 §13, 1940).

6.03.070 Issuance prohibited to food stores or general merchandise businesses – Exceptions

No license shall be issued to any person to sell or distribute draught beer as a retailer in any room or place of business where groceries or foods are sold to the general public, or in any general merchandise store within the city, and it is unlawful to permit beer sold in any such place of business to be consumed at the place where sold. No beer sold or delivered in the city shall be drunk or consumed at any grocery store or place where groceries or foods are sold to the general public or at any general merchandise store. However, the provisions of this section shall not be applied to restaurants or cafes, or soft-drink dispensaries, when not operated in connection with the selling of foods, except candies and other sweetmeats. (Ord. 341 §12, 1940).

6.03.080 Application – Information required

Any person desiring to engage in the business of sale, barter, trade, delivery or disposition of beer as a retailer within the city limits shall, before doing so, make application to the city council for a license and pay the tax provided in this chapter to be paid in such cases. Such application shall be in writing and shall state the name, age and sex of the applicant, the business in which he is engaged, whether an individual, firm, copartner ship or corporation, or other association of persons, and the street number or brief description and location of the place where beer is to be sold or kept for sale by such applicant. (Ord. 341 §3, 1940).

6.03.090 Application – Fees

Every applicant for a license under the provisions of this ordinance shall deposit with the City Clerk for the uses and purposes of the City of Rexburg at the time of filing of his application, the amount in lawful money of the United States, herein required for the kind of license applied for, for the current licensing year. If such application is filed between the first (1st) day of October and the thirty first (31st) day of March, there shall be so deposited the fee for the full year, and if filed between the first (1st) day of April and the thirtieth (30th) day of September, one-half of the

yearly fee. All licenses shall expire on the 30th day of September of the licensing year. The license fee to be paid and collected for the respective kinds of licenses hereby authorized, shall be the following:

1) Where the applicant applies for a. license to sell as a retailer, only bottled or canned beer and wine, none of which is consumed, or to be consumed, on the premises where sold, the license fee shall be $50.00 per year until such fee is amended by resolution of the Council.

2) Where the applicant applies for a license to sell beer or wine as a retailer for consumption on premises:

    a) Draught beer and bottled or canned beer only, the amount of the license fee shall be $200.00 per year, or if

    b) Bottled, boxed or canned wine only, the amount of the license fee shall be $200.00 per year.

Otherwise, the fee shall be as set forth and amended from time to time by Resolution of the Council. (Ord. 942, §2, 2005).

6.03.100 Licensing year

Every applicant for a license under the provisions of this ordinance shall deposit with the City Clerk for the uses and purposes of the City of Rexburg at the time of filing of his application, the amount in lawful money of the United States, herein required for the kind of license applied for, for the current licensing year. If such application is filed between the first (1st) day of October and the thirty first (31st) day of March, there shall be so deposited the fee for the full year, and if filed between the first (1st) day of April and the thirtieth (30th) day of September, one-half of the yearly fee. All licenses shall expire on the 30th day of September of the licensing year. (Ord. 942, §2(part), 2005).

6.03.110 Posting of license required – Transfer prohibited

Every license issued pursuant to the provisions of this chapter shall be kept posted at all times at the place of business of the licensee named therein, where beer is sold or offered for sale; and such license shall not be transferable and shall not authorize the licensee or any person to sell beer at any place within the city except the place mentioned and described in the application for such license. Any attempt to transfer such license, or any sale or offering for sale of beer at any place other than that mentioned and described in such application, shall be a violation of the provisions of this chapter. (Ord. 341 §6, 1940).

6.03.120 Denial or revocation of license authorization

The city council reserves the right and power to deny, for cause, any application for a license to sell beer at retail within the city, and the power to revoke any license issued under the provisions of this chapter, if the holder of such license shall be convicted of a violation of any of the provisions of this chapter or of any law of the state relating to the retail sale of beer. (Ord. 341 §15, 1940).

6.03.130 Employees – Health certificate requirements

Every person employed to sell beer at retail within the city shall, before selling or dispensing any draught beer, submit to the examination and test required by the health regulations of the state, and obtain a valid health certificate as provided in Chapter 12 of Title 38 of the Idaho Code Annotated. (Ord. 341 §9, 1940).

6.03.140 Premises to be sanitary and orderly

Every place where beer is sold within the city shall be maintained in a sanitary and orderly condition and as a quiet, orderly place of business, and the same shall be open at all times to inspection by the police officers of the city, or any officers of Madison County, of the state, or the United States. There shall be no screen or blind at any door or window, or other obstruction to the view of the general public into any building through the doors and windows thereof, where beer is sold. (Ord. 341 §7, 1940).

6.03.150 Hours when sales prohibited

That No beer or wine shall be sold, offered for sale, or given away, or be permitted to be consumed upon any licensed premises or where beer or wine is sold or dispensed to be consumed on the premises, whether conducted for pleasure or profit, on and during the following days and hours: Sunday and on any other day between the hours of 1:00 a.m. and 6:00 a.m. (Ord. 942, §1, 2005).

6.03.160 Violation – Penalty

Any violations of the provisions of this chapter shall be a misdemeanor, and any person convicted of a violation of any of the provisions hereof shall be punishable as set forth in Chapter 1.02.020 of this code. If any retailer to whom a license has been issued pursuant to the provisions of this chapter shall be convicted of any violation of the provisions hereof, or of any law of the state relating to the sale of retail sale of beer, the license of such retailer may be revoked or suspended for such time as the council and mayor may determine by order of the council, and after revocation such retailer shall not be eligible to receive a license to sell beer in the city for a period of at least one year after the date of such revocation. (Ord. 341 §17, 1940).

CHAPTER 6.04 APARTMENTS

6.04.010 Definitions

The following words and phrases, when used in this chapter, shall have the following meanings respectively ascribed to them in this section.

“Apartment”, "Apartment house" or ““residential rental unit”” means a dwelling unit or suite of rooms that are designed to be occupied for living purposes, rented on a monthly or longer basis.

City" means the city of Rexburg, Madison County, state of Idaho.

"Employee," for the purposes of this chapter, means any person employed by a Business including active owners, managers, active partners and agents, also including sales persons and all persons engaged in or associated directly with the management and operation of the property concerned. The intention is to include as "employees" all persons hired by, or working for the property involved, and to include owners and proprietors within the designation. In case of part -time employees, the number of full -time equivalent employees will be determined by dividing the total number of hours worked by all part -time employees by two thousand eighty.

"Hotel," "motel," "roominghouse," or "lodginghouse" means any building or buildings containing guest rooms intended to be rented or hired out for sleeping purposes for periods less than thirty (30) consecutive days.

Mayor" means the mayor of the city.

"Nonprofit organization" means any religious, charitable, social, educational, or civic group which does not distribute profits or dividends to the members thereof and where profit is not their object.

"Office" means a room or building in which a person transacts his business or carries on his stated occupation.

"Person" means a corporation, partnership, company, association, or society as well as a natural person and the agents and representatives thereof.

“Residential Rental” means a dwelling unit or suite of rooms that are designed to be occupied for living purpose, rented on a monthly or longer basis.

"Year," for general city business registration purposes, means a period of time of twelve months commencing each year on January 1st and ending the last day of December of the same year. (Ord. 975 §2(part), 2007).

6.04.020 Residential rental – Registration required

For the protection and general welfare of the inhabitants of the city, every Residential Rental **in excess of one rental unit per parcel** operated within the city comes within the police power of the city, and no person shall engage in the operation of a Residential Rental, Apartment House or Apartment without first registering unless exempt under this Ordinance or exempted by state law. The charge for such registration shall be as fixed in Section 6.04.040 unless otherwise provided in this code. Money received from registration shall be used to defray the expense of issuing the registration and the physical facilities review, regulation and control of Residential Rental, Apartment House or Apartment within the city. This registration requirement is intended to apply to all entities operating a Residential Rental, Apartment House or Apartment within the city unless the entity is otherwise expressly excluded in this chapter from this requirement. (Ord. 975 §2(RR03.010), 2007).

6.04.030 Application – Issuance procedure

The city clerk shall be charged with the collection of all Residential Rental, Apartment House or Apartment registration fees required by the city. The city clerk shall provide an application form in substantially the same format as addendum "A" to this Ordinance for the purpose of facilitating registration. As directed by the city clerk, each applicant for registration shall file with the city clerk an application in writing on the form provided for such registration application. (Ord. 975 §2(RR03.020), 2007).

6.04.040 Fee – Schedule

The schedule of fees for registration of a Residential Rental, Apartment House or Apartment shall be set forth in the **Business Registration Fee Schedule**, and may be amended from time to time by Resolution of the Rexburg City Council in accordance with applicable State laws. (Ord. 975 §2(RR03.030), 2007).

6.04.050 Fees – Refund

If an application for a registration is denied, the fee that accompanied the application shall be returned to the applicant in its entirety except for fees associated with inspection in aid of granting or rejecting the registration. (Ord. 975 §2(RR03.040), 2007).

6.04.060 Term – Proration

All business registrations shall be annual, unless otherwise specified. All applicants for registration shall pay the annual fee irrespective of the point in the year at which the registration is sought. (Ord. 975 §2(RR03.050), 2007).

6.04.070 Separate Registration Required

A registration shall be obtained for each individually identifiable location, irrespective of ownership. (Ord. 975 §2(RR03.060), 2007).

6.04.080 Business – Change of ownership

Whenever a Residential Rental, Apartment House or Apartment changes ownership, the new owner shall report such change to the city clerk so that the registration may be transferred. (Ord. 975 §2(RR03.070), 2007).

6.04.090 Interpretation of provisions – Unlawful business

The registration provisions of this chapter shall not be construed to grant permission to carry on or conduct any unlawful business, or to operate any Residential Rental, Apartment House or Apartment in an unlawful manner, or to grant immunity to any entity from lawful regulation and control, or to authorize the violation of any zoning ordinance, regulation, or restriction. (Ord. 975 §2(RR03.080), 2007).

6.04.100 Right to refuse or revoke registration

Whenever the council deems it in the public interest, it may, by resolution adopted by a majority vote of the members of the council and approved by the mayor, refuse to authorize the issuance

of any registration provided for in this chapter, the council may also, upon a majority vote of members of the council and approved by the mayor, revoke any registration issued under this chapter if deemed in the public interest to do so. (Ord. 975 §2(RR03.090), 2007).

6.04.110 Parking space management.

Each Residential Rental, Apartment House or Apartment must inventory all approved parking spaces, and issue contractual obligations relative to all such parking spaces. No agreements for tenancy shall be executed on behalf of the owner, operator or their agents, relative to a Residential Rental, Apartment House or Apartment without affirmatively designating whether the same has a parking space available. (Ord. 975 §2(RR04.010), 2007).

6.04.120 Parking space restrictions

All designation of available parking as referenced in Section 6.04.110 above must have an approved parking space associated with the designation such that if all designated tenants were to park a vehicle there would be adequate spaces. No allowance for absenteeism shall be allowed. For each agreement containing an affirmative designation of parking space, there must be a space. (Ord. 975 §2(RR04.020), 2007).

6.04.130 Non-parking agreements

Any agreement for tenancy in a Residential Rental, Apartment House or Apartment which is not specifically designated as a “Parking Space” agreement, there must be an affirmative statement notifying the parties to the agreement that there is no overnight, on site parking provided in connection with the agreement. (Ord. 975 §2(RR04.030), 2007).

6.04.140 Owner responsibility

Any owner, employer or other person in charge of a Residential Rental, Apartment House or Apartment, shall be responsible for insuring to the best of their ability that all provisions of this Ordinance are complied with. (Ord. 975 §3, 2007).

6.04.150 Penalties

(A) Any person who violates a provision of this chapter shall be guilty of a misdemeanor, and shall be subject to fines or by imprisonment, or by both such fine and imprisonment consistent with Idaho Code, Section 18-113, as amended.

(B) Upon a second conviction within a three year period, the person shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and be fined no less than One Hundred Dollars ($100.00) in conjunction with any other sentence or costs deemed appropriate by the Court.

(C) Upon a third or greater conviction within a three year period, the person shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and be fined no less than Two Hundred and Fifty Dollars ($250.00) in conjunction with any other sentence or costs deemed appropriate by the Court. (Ord. 975 §4, 2007).

CHAPTER 6.05 PLUMBERS

6.05.010 Plumbing business – License required

Before any person, firm, partnership or corporation shall carry on or engage in the business of plumbing, such person, firm, partnership or corporation shall first procure a business license and pay to the city department having jurisdiction the annual license fee imposed on such business. (Ord. 617 §1(A), 1980).

6.05.020 Certificate of competency required

No business license shall be issued to any person to engage in the business of plumbing unless such person possesses a valid plumbing journeyman's certificate of competency; provided, however, that a business license may be issued to any person, firm, partnership or corporation who makes application for such license by or through a bona fide member or authorized agent thereof, who possesses a valid plumbing journeyman's certificate of competency. (Ord. 617 §1(B), 1980).

6.05.030 Issuance through authorized agent

Whenever a business license has been issued to any person, firm, partnership or corporation who applied for such license, to engage in the business of plumbing by or through a bona fide member or authorized agent thereof, pursuant to the provisions of Section 6.05.020; such member or authorized agent, or some other member or authorized agent or employee possessing a valid plumbing journeyman's certificate of competency shall at all times be in actual charge and control of all plumbing done or to be done by such person, firm, partnership or corporation. (Ord. 617 §1(C), 1980).

6.05.040 Sewer contractor licensing

Before any person, firm, partnership or corporation shall carry on, or engage in business as sewer contractor, such person, firm, partnership or corporation shall first procure a business license and pay to the city the annual license fee imposed on such business. (Ord. 617 §1(D), 1980).

6.05.050 State certificate required – Examination

It is unlawful for any person, firm, copartner ship, association or corporation to engage in the business, trade, practice or work of plumbing in the city unless such person, or responsible person representing such firm, copartner ship, association or corporation, has successfully passed an examination as provided by Chapter 27, Title 39, Idaho Code, The Plumbing Law of the state of Idaho, and has issued to him a State Certificate of Competency, which shall not be transferable. (Ord. 617 §2(1), 1980).

6.05.060 Classifications of competency – Generally

There shall be three classifications of competency in the business, trade, practice or work of plumbing set out in Sections 6.05.070, 6.05.080 and 6.05.090. (Ord. 617 §2(2) (part), 1980).

6.05.070 Classifications – Plumbing contractor

A plumbing contractor shall be any person, or a member, representative or agent of a firm, copartner ship, association or corporation skilled in the planning and supervision of the construction, installation, improvement, extension and alteration of plumbing systems, and who is familiar with the provisions of this chapter, the Uniform Plumbing Code of the International Association of Plumbing and Mechanical Officials, and the Plumbing Law of the state of Idaho, Chapter 27, Title 39, Idaho Code, and who is competent to offer and to assume to work on a contract basis and to direct the work of qualified employees. A contractor who in person does plumbing work shall also be qualified as a journeyman plumber, or have in his employ on all work a qualified plumbing journeyman. (Ord. 617 §2 (2) (A), 1980).

6.05.080 Classifications – Plumbing journeyman

A plumbing journeyman shall be any person who, as his principal occupation, is engaged in the installation, improvement, extension and alteration of plumbing systems, and who is familiar with the provisions of this chapter, the Uniform Plumbing Code and the Plumbing Law of the state of Idaho, and who works in the employ and under the direction of a plumbing contractor. (Ord. 617 §2(2) (B), 1980).

6.05.090 Classifications – Plumbing apprentice

A plumbing apprentice shall be any person who, as his principal occupation, is engaged in learning and assisting in installation, improvement, extension and alteration of plumbing systems. Apprentices shall not perform plumbing work except under the supervision of a journeyman. (Ord. 617 §2(2) (C), 1980).

6.05.100 Violation – Penalty

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not to exceed three hundred dollars. Each separate day or any portion thereof during which any violation of this chapter occurs or continues shall be deemed to constitute a separate offense, and upon conviction thereof shall be punishable as provided in this section. (Ord. 617 §3, 1980).

6.05.110 License required

Any individual or firm desiring to engage in the business of a plumbing contractor must first obtain a current plumbing contractor's license from the state of Idaho. (Ord. 686 §1, 1988).

6.05.120 Fees

From and after January 1, 1986, applicants for permits shall pay to the plumbing board fees established by the plumbing board by rule and regulations subject to the approval of the city council. (Ord. 686 §2, 1988).

6.05.130 Liability not assumed by municipality

This chapter shall not be construed to relieve from or lessen the responsibility of any person owning, using or installing any plumbing or plumbing fixtures, for damages to anyone injured or

damages either in person or property by any defect therein; nor shall the city or any agent thereof be held as assuming such liability by reason of inspection authorized herein or certificates of inspection issued by the administrative authority. (Ord. 686 §3, 1988).

6.05.140 Master plumber's license – Application

Any person desiring to secure a Rexburg master plumber's license shall file with the clerk his application therefore and shall deposit with the clerk a license fee set forth in Appendix 1. Every contractor, before securing a license as hereinafter provided, must post a certificate of insurance with the clerk showing that he is insured against property damage and liability in an amount of not less than one hundred thousand dollars and bodily injury (including death) liability with limits of not less than twenty thousand dollars per person and three hundred thousand dollars total for each occurrence. Such insurance shall be approved by the city. The applicant must possess at the time the application is received a valid plumbing contractor's certificate of competency issued by the state of Idaho. (Ord. 686 §4, 1988).

6.05.150 Master plumber's license – Renewal

All Rexburg master plumbers' licenses shall expire on December 31 of each year unless sooner revoked, and shall not be transferable. Licenses will be renewed only after the applicant has complied with Section 6.20.040 above and has paid the city clerk a renewal fee set forth in Appendix 1. (Ord. 686 §5, 1988).

6.05.160 Journeyman plumber's license – Application

Any journeyman desiring to secure a journeyman Rexburg plumber's license shall file with the clerk his application therefore and shall deposit with said clerk a license fee set forth in Appendix 1. Said application shall contain the name, age and place of residence of the person desiring to secure such license. Applicant must possess at the time application is received, a valid journeyman plumber's certificate of competency issued by the state of Idaho. (Ord. 686 §6, 1988).

6.05.170 Journeyman plumber's license – Renewal

All Rexburg journeyman plumbers' licenses shall expire on December 31st of each year unless sooner revoked and shall not be transferable. Licenses will be renewed only after the applicant has compiled with Section VI above and has paid the city clerk a renewal fee set forth in Appendix 1. (Ord. 686 §7, 1988).

6.05.180 Apprentice registration and work supervision

An apprentice must register with the city clerk and pay an annual registration fee set forth in Appendix 1. Any registration expires on December 31st. The fee for renewal of registration set forth in Appendix 1. (Ord. 686 §8, 1988).

CHAPTER 6.06 MOBILE HOMES

6.06.010 Business license and fee requirements

No person shall construct, maintain, operate or alter any mobile home park unless he holds valid license issued annually, in the name of such person for the specific mobile home park. All applications for license upon compliance by the applicant with provisions of the chapter and of any regulations adopted pursuant thereof, and the payment of a business license fee. Said fee shall be determined as follows:

$2.00 per space for the first twenty (20) spaces.

$1.00 per space in excess of twenty. (Ord. 548 §6(A), 1974).

6.06.020 Licensing existing Mobile Home Parks

An application for a license to operate an existing mobile home park shall be filed with the City Clerk. Upon receipt of the application the building inspector or his representative shall make an inspection of the mobile home park.

1) A regular license shall be issued after payment of the appropriate fee is provided in the preceding Section 6 (A). If the examination reveals that the conditions and facilities of the park meet the standards herein set forth.

2) A conditional license shall be issued if the examination of the park reveals any condition or facilities which do not meet the standards provided for in Section 6 (c). The owner of such an existing park shall have to meet the required standards within a reasonable period of time set by the Building Inspector. At the end of such period the Building Inspector shall reinspect the park and if the requirements have been met, will issue a business license as provided in Section 6 (A). If the required standards have not been met the conditional license shall be suspended according to the procedures set forth in Section 6 (G).

Existing mobile home parks developed to standards lower than established by this chapter shall not be reconstructed or enlarged to standards lower than the standards existing on the effective date of this ordinance. (Ord. 548 §6(B), 1974).

6.06.030 Improvement requirements to obtain a business license

Before a business license can be issued to any existing mobile home parks, the following improvements have to be met:

1) Sewers - Existing sewer lines within the park which do not meet the minimum requirements of this chapter may remain in use so long as they function properly and the park conforms to the City and State regulations governing sewage and water. Any replacement of the sewers facilities shall conform to the requirements of new mobile home parks.

2) Water Supply - An existing water supply system which does not meet minimum requirements of this chapter with respect to general availability, etc., may remain in use so long as it continues to function properly and the park conforms to the City and State

regulations governing water supply. Any replacement of water supply facilities shall conform to the requirements for new mobile home parks.

3) Lighting and Wiring - The electrical and lighting system shall be made to conform to existing electrical codes.

4) Service buildings - Service building shall be made to conform to the standards for new mobile home parks by May 1, 1976.

5) Improvement Requirements - Surfacing for access ways, walkways, patios, and stands will be made to conform to the following standards by May 1, 1976.

   a) Accessways shall be surfaced to a minimum width of twenty feet (20')with crushed gravel, the minimum depth of which shall be at least eight inches (8").

   b) Mobile home stands shall be surfaced with crushed gravel to a size equal to or greater than the dimensions of the mobile home located on the stand, but shall not be less than ten (10) feet by thirty (30) feet.

   c) Patio may have a paved surface area of concrete, asphalt, flagstone or the equivalent, of at least one hundred forty (140) square feet, and a minimum width of ten (10) feet. Decking may be utilized if approved by the Building Inspector.

   d) Walkways shall be provided for each mobile home space to the service buildings and from, the patio to the surfaced part of the accessway. Common walkways shall have a minimum width of three (3) feet, and private walkway on individual lots shall have a minimum width of one and one-half (1 2) feet. The accessway may be considered as part of the walkway to the service building, provided said accessway had a minimum width of twenty-five (25) feet. Walkways shall have a paved surface of concrete, asphalt or equivalent.

6) Outside Storage - All outside storage in mobile home space shall be in an enclosed building as required for new mobile home parks or fenced storage areas.

7) Plot Plan Required for Existing Mobile Home Parks - The owner or operator of a mobile home park existing at the time of passage of this ordinance shall file with the Building Inspector, plot plans of this park in accordance with Section 5 (A). (Ord. 548 §6(C), 1974).

6.06.040 Penalty of delinquency – new or renewal license fee

Any person failing to pay the business license fee before engaging in the mobile home park business shall pay a penalty of twenty per cent (20%) or the business license fee in addition to the fee provided in Section 6 (A). (Ord. 548 §6(D), 1974).

6.06.050 Transfer of license

If a transfer of license for mobile home park under these provisions is desired, a written application for transfer shall be filed with the City Clerk, accompanied by a fee of ten dollars

($10.00). Such application shall be made within twenty-four (24) hours after any change in ownership, interest or control of any mobile home park. The application shall contain the name and address of the present licensee, the applicant, the location of the park. Before the transfer of the license so approved, the application shall be signed by the Building Inspector certifying that the mobile home park conforms to all regulations governing mobile home parks. Upon receipt of approval, the City Clerk shall issue a new license to be valid until the first day of the following January.

If the application for transfer is disapproved, the City Clerk shall set forth in writing the reasons therefore and state the action necessary to receive approval. The applicant may appeal the ruling to the City Council by filing a written notice of appeal with the City Clerk. (Ord. 548 §6(E), 1974).

6.06.060 Display of license

Any required mobile home park license shall be displayed in a conspicuous place on the mobile home park premises. (Ord. 548 §6(F), 1974).

6.06.070 Revocation of license

1) Whenever, upon inspection of any mobile home park, the Building Inspector finds that conditions or practices exist which are in violation of any provision of this chapter or of any regulation adopted pursuant thereto, the Building Inspector shall give notice in writing to the person to whom the license was issued Inspector shall give notice in writing to the person to whom the license was issued.

2) Such notice shall:

    a) Include a statement of the reason for its issuance.

    b) Be served upon the owner or his agent or the occupant as the case may require; provided, that such notice or order shall be deemed to have been properly served upon such owner or agent, or upon such occupant, when a copy thereof has been sent by registered mail to his last known address; or when a copy thereof has been posted in a conspicuous place in or about the dwelling affected by the notice; or when he has been served with such notice by any other method authorized or required by the laws of this State.

    c) Contain an outline of remedial action, which, if taken, will effect compliance of this chapter, and with regulations adopted pursuant thereof.

    d) Allow a reasonable time for the performance of the remedial action.

1) At the end of such period, the Building Inspector shall reinspect such mobile home park and if such conditions or practices have not been corrected, he shall give notice in writing to the person to whom the license was issued that the license has been suspended. Upon receipt of notice of suspension, such persons shall cease operation of such mobile home park.

2) Any person whose license has been suspended, or who has received notice from the Building Inspector that his license shall be suspended unless certain conditions or practices at the mobile home park are corrected, may request and shall be granted a hearing on the matter before the Building Inspector, provided, that such person shall file in the office of the Building Inspector a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served.

3) Any such license suspended by a notice shall be deemed to be automatically revoked if a petition for hearing shall not have been filed in the Office of the Building Inspector within ten (10) days after such notice was served.

4) Upon receipt of such petition, the Building Inspector shall set a time and place for such hearing, and shall give the petitioner written notice there. At such hearing the petitioner shall be given an opportunity to be heard, and to show any such notice should be modified.

5) The hearing shall be commenced not later than ten (10) days after the day on which the petition was filed; provided, that, upon application of the petitioner, the Building Inspector may postpone the date of the hearing for a reasonable time beyond such ten (10) days period on his judgment that the petitioner has submitted a good and sufficient reason for such postponement.

6) After such hearing , the Building Inspector shall sustain, modify, or withdraw the notice, depending upon his findings as to compliance or noncompliance with the provisions of his chapter, and of regulations adopted pursuant thereof. If the Building Inspector should sustain or modify such notice, it shall be deemed to be an order.

7) After a hearing in the case of any notice suspending any license required by this chapter, or by any regulation adopted pursuant thereof, when such notice shall have been sustained by the Building Inspector, the license shall be deemed to have been revoked.

8) The proceedings at such hearing, including the findings and decisions of the Building Inspector, shall be reduced to writing and entered as a matter of public record in the office of the City Clerk. Such record shall include, also, a copy of every notice or order issued in connection with the matter.

9) Any person aggrieved by the decision of the Building Inspector may seek relief there- from in any Court of competent jurisdiction, as provided by the laws of this state.

10) Whenever the Building Inspector finds that an emergency exists which requires immediate action, to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this chapter such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately but, upon petition to the Building Inspector, shall be afforded a hearing as soon as possible. After such hearing, depending upon his findings as to compliance or noncompliance with the provisions of this chapter, and of regulation adopted

pursuant thereof, the Building Inspector shall continue such order in effect of modify it or revoke it. (Ord. 548 §6(G), 1974).

CHAPTER 6.07 COIN OPERATED DEVICES

6.07.010 Definitions

For the purpose of this ordinance, the following definitions shall apply in the interpretation of the provisions of this ordinance;

1) **Coin operated machine or amusement** Device is a machine or mechanical device into which me be inserted and piece of money, or other object and from which as a result of such insertion and application on physical or mechanical force, may issue wholly upon and chance or uncertain or contingent event, any piece or pieces of money, or any check memorandum, or any other tangible evidence by any person whatsoever; which device is defined as and hereby declared to be a gaming but not a lottery.

2) For the purpose of this act any machine having multiple slots, or combinations, for coins of like or different denominations, that can be operated by the insertion, in separate slots, of like or different denominations each such slot shall be deemed a separate machine and device and shall be required to pay the license fee hereinafter prescribed for each device.

3) The word **person** included an individual person, partnership, corporation, or association. (Ord. 360 §1, 1947).

6.07.020 License required

It shall be unlawful for any person, firm or corporation or association to possess, lease, rent, license, or permit the use of or control place, maintain, or to permit the operation of , upon any premises or at any place location or building in the City of Rexburg, any coin operated amusement device, unless and until such coin operated amusement device shall be licensed by the City of Rexburg, Idaho, as hereinafter provided; and it shall be unlawful to permit any person under the operation of such device in any public place where persons under twenty years of age would have access thereto. (Ord. 360 §2, 1947).

6.07.030 Application for license

Before any such coin operated amusement device may be operated within the City, an application for a license for each such device or devices, shall be filed with the City Clerk of the City of Rexburg, Idaho, on an application form provided by the city. Said application form shall provide, among other things, the following information;

The name of the applicant; the name of the place and the location where it is proposed such coin operated device is, or devices are, to be operated; the number of such devices and the make, serial number, type, and coin denomination of each machine desired to be operated by the applicant at such location; such application shall be signed and verified by the applicant, or if the

application or association, then by an officer of the such corporation or association. (Ord. 360 §3, 1947).

Such application, accompanied by the necessary license fees, shall be filed with the City Clerk, and be presented to the City Council at any regular or Special meeting of the City Council for approval or disapproval. It the City Council determine that said application fully complies with all the provisions of said chapter 151 of the 1947 session laws of the State of Idaho and this ordinance, it shall approve said application and authorize the clerk to issue a license for each such machine so approved as hereinafter provided. In the event such application be disapproved, the tendered license fee shall be returned to the applicant. (Ord. 360 §5, 1947).

6.07.040 License fees

The license fee required for obtaining a license stamp for each of said coin operation devices for the calendar year shall be as follows:

1) $750.00 per calendar year for each machine played or operated with Nichol or dimes;

2) $850.00 per calendar year for each machine played or operated with quarter dollars;

3) $1,000.00 per calendar year for each machine played or operated with half dollars or dollars;

4) In case any device may be operated with money of more than one denomination, the license fee required for such device shall be double the amount of the license fee required for a device operated with money of only one denomination, computed on the basis of the highest denomination with which the said device will operate.

Said license fee will be prorated as beginning with the actual month of issue for the remainder of the calendar year and in computing the license fee, the month in which the license is issued shall be included.

Of the license fee so collected on each such devices $125.00 thereof for the calendar year, or the pro rate share thereof if issued for less than a full calendar year shall be collected for Madison County: and $125.00 thereof , or the pro rata portion thereof, if issued for less than a calendar year, shall be collected for the State of Idaho; and the balance of said license fee shall be deposited in the general Fund of the City. Provided further that the money so collected by the City for the State of Idaho and for the County of Madison quarter annually on April 1st. July 1st, October 1st, and January 1st of each year. (Ord. 360 §4, 1947).

6.07.050 Issuance of license

The license issued under this ordinance shall be in the form of a license stamp, and a separate license must be issued to for each coin operated amusement device. The licensee, immediately upon assurance thereof, shall securely affix the said stamp to the coin operated amusement device in a conspicuous place, and cancel the same by cutting it criss cross with a sharp knife or instrument. (Ord. 360 §7, 1947).

6.07.060 Premises

No coin operated amusement device may be operated on any premises except those owned or leased by the license. No person other than the licensee may have any legal, equitable, or financial right, title or interest in such device, whether by ownership or, mortgage, conditional sales, contract, or otherwise, nor receive any rental or remuneration therefrom the operation thereof. (Ord. 360 §6, 1947).

6.07.070 Substitute licenses

1) No license stamp shall be used on any device other than the one for which said license stamp is issued; provided however, the City Council may authorize the issuance of a substitute license upon presentation to the City Council of a duly verified application, on a form to be provided by said city, showing such device to have become wholly or in part, worn out, accidentally broken, stolen, or accidentally destroyed to such an extent that it is rendered useless, the substitute license shall bear the same license number as the one originally issued and shall be designated a substitute license and the same shall have thereon the name of the owner, location, type and serial number of the device for which the substitute license is issued, such substitute license shall be affixed to the device for which it is issued, and to be canceled in all respects as required by law for an original license. The original license shall then be void and shall be destroyed by the licensee, if possible.

2) The City Council may authorize the transfer of a licensed device, with the license stamp attached, from one owner thereof to another person of from one location to another location on application by the licensee, or his transferee, on a form to be provided by the city. Upon approval by the City Council, a permit for said transfer shall be issued by the City Clerk, which permit shall bear the same number as the license stamp issued for said device and the number of the transferee. Said permit shall be affixed to the device transferred and shall be canceled in the same manner as the license stamp originally issued shall remain on said device so transferred.

3) A fee of $5.00 shall be collected by the City Clerk for each substitute license or permit, and the same shall be placed in the General fund of said City. (Ord. 360 §8, 1947).

6.07.080 Revocation and cancellation of licenses

If any licensee of a coin operated amusement device violates any of the provisions of this ordinance or any of the provisions of said chapter 151 of the 1947 Session Laws of the State of Idaho, the City Council is hereby authorized to and empowered to revoke all licenses to operate such devices issued to said licensee; provided, however, that in the event it is brought to the attention of the City Council that such violations have taken place then, before revoking such licenses, the City council shall cause a notice in writing to be served upon such licensee setting forth in general terms the violations claimed to exist or to have existed, and such notice shall provide a time for hearing thereon before the City Council, which date of hearing shall provide a time for hearing thereon before the City Council, which date of hearing shall not be less than tem (10) days nor more than twenty (20) days from the date of service of said notice, and upon or following said hearing, the City Council, upon finding that the provisions of this ordinance or the provisions of the State law, said chapter 151 of the 1947 Sessions Laws of the State of Idaho,

have been violated by such licensee, such license or licenses shall be revoked, and no refund of any unused portion of the license fee paid shall be made to the licensee. And the granting to him of another license shall be in the discretion of the Council. (Ord. 360 §9, 1947).

6.07.090 Hours when use prohibited

It shall be unlawful for any person within the corporate limits of the City of Rexburg to operate of play any coin operated amusement device, and for any owner of persons in charge thereof, to permit the operation or playing of any coin operated amusement device between the hours of 1:00 o'clock a.m. Sunday and 7:00 o'clock a.m. Monday in any week. And all coin operated amusements devices shall be covered and kept covered during said hours. (Ord. 360 §10, 1947).

6.07.100 Violation – Penalty

Any violation of the provisions of §6.07.010-§6.07.100, the penalty for which is not provided for by said chapter 151 of the 1947 Session Laws of the State of Idaho, shall be unlawful, and any person so violating such provisions shall be guilty of a criminal offense, and upon conviction thereof shall be fined not to exceed $100.00, and upon failure to pay such fine is paid in full, or for confinement in the City jail not more than thirty days, or by both fine and imprisonment, in the discretion of the Court. (Ord. 360 §11(part), 1947).

CHAPTER 6.08 PAWNBROKERS AND SECONDHAND STORES

6.08.010 Definitions

As used in this article:

1) Garage sale: means a sale of new or used personal property, not more than three consecutive days in duration and conducted not more frequently than once every six months at the same location.

2) Pawnbrokers: means persons who engage in the business of lending or advancing money on the security of personal property pledged or deposited in their possession.

3) Precious metals: means gold, silver, platinum and other alloys.

4) Secondhand goods: means articles of personal property, other than operable motor vehicles, previously possessed and used by a person other than their current possessor.

5) Secondhand precious metals dealer: means a person who engages in the business of buying, selling, exchanging or trading old or used precious metal or secondhand goods containing any precious metal.

    a) Exceptions: The following shall not be considered secondhand precious metals dealers:

        i) Persons who in the ordinary course of business buy or sell uncast precious metals primarily for use in any manufacturing or photographic developing process, jewelry manufacture or repair, or dental restoration or repair.

ii) Persons who in the ordinary course of business accept or receive secondhand goods containing precious metals as consideration for the sale of new merchandise and who subsequently dispose of such secondhand goods in the same form as they existed at the time of their receipt.

b) "Secondhand storekeeper" means a person who engages in the business of buying, selling, exchanging or trading secondhand goods.

i) Exception: Persons who sponsor or conduct garage sales shall not be considered secondhand storekeepers. (Ord. 732 §1(1)--(6), 1992).

6.08.020 License requirements

No person shall engage in the business of a pawnbroker, secondhand storekeeper or secondhand precious metals dealer without first obtaining a license issued by the city. (Ord. 732 §1(7), 1992).

6.08.030 Application

Applications for pawnbrokers, secondhand storekeepers and secondhand precious metals dealers' licenses shall be made on a form provided by the city clerk. The application shall state the applicant's name, residential address, business name, address of place of business, type of license applied for and a general description of the goods and/or materials to be purchased, sold, exchanged or traded. The relevant license fee shall accompany the application. (Ord. 732 §1(8), 1992).

6.08.040 Approval and issuance conditions

Applications for licenses required under this article shall be forwarded by the city clerk to the city council for its review and approval or denial. The city council shall have authority to approve or deny issuance of licenses required by this article. Upon approval of an application, the city clerk shall issue the license. If a license application is denied by the city council, the license fee shall be refunded to the applicant. (Ord. 732 §1(9), 1992).

6.08.050 License fees

Fees for licenses issued under this article shall be as set forth in the city's business license ordinance. These fees are set forth in Appendix 1. (Ord. 732 §1(10), 1992).

6.08.060 Records to be kept – Contents

All pawnbrokers, secondhand storekeepers and secondhand precious metals dealers shall keep the following written records:

1) An accurate description of all precious metals and personal property purchased, acquired or received. The description shall include the make, model, model number, serial number and other identifying marks, numbers or features of such personal property;

2) The name, residence, driver's license number or social security number of the person from whom any precious metals or personal property is purchased, acquired or received at storekeeper's place of business;

3) The date and place of the purchase, acquisition or reception;

4) Any other records required to be kept under Idaho law. (Ord. 732 §1(11), 1992).

6.08.070 Records – Open for inspection

All records required to be kept under this article shall be made available for inspection by designated police officers appointed by the chief of police of the city during normal business hours. No pawnbroker, secondhand precious metals dealer or secondhand storekeeper or any of their agents or employees shall refuse to permit any designated police officer of the city to inspect or copy such records. A clear and readable copy shall be furnished to the police. (Ord. 732 §1(12), 1992).

6.08.080 Records – Retention – Time

All records required to be kept under this article shall be kept for not less than three years. (Ord. 732 §1(13), 1992).

6.08.090 Property holding period before resale

No person licensed under this article shall sell, trade, rent or otherwise dispose of any property acquired for the purpose of resale or other conveyance for a period of five days from the date of receiving the property. (Ord. 732 §1(14), 1992).

6.08.100 Compliance with the law

Persons licensed under this article shall conduct their businesses in compliance with all applicable federal, state and city laws, ordinances and regulations. (Ord. 732 §1(15), 1992).

6.08.110 Prohibited purchases

No person licensed under this article shall purchase, acquire, accept or receive in the ordinary course of business and for the purpose of resale or other conveyance any precious metals or personal property from any person who is under the age of eighteen years or who is under the influence of alcohol, drugs or a controlled substance. (Ord. 732 §1(16), 1992).

CHAPTER 6.09 SCRAP METAL DEALERS

6.09.010 Definitions

As used in this article:

1) Scrap: means used or old metal cable or wire; cordage; iron, copper, brass, lead, zinc, steel, aluminum and similar metals; glass; plastic; inoperable motor vehicles; motor vehicle parts, supplies and accessories; inoperable machinery; machine parts, supplies and accessories; paper products, including but not limited to, newspapers and magazines; cardboard; rags or other fibrous material; lumber or other building materials; or any other used or old articles whose value is derived primarily from reclamation of its constituent parts or materials.

2) Scrap dealer: means a person who engages in the business of purchasing, selling, exchanging, trading, recycling and/or storing scrap.

3) Scrapyard: means a parcel of land or a portion thereof where scrap is purchased, sold, exchanged, traded, disassembled, recycled, stored, maintained or kept.

    a) Exception: If the activities listed in subsection (C)(1) of this section are conducted entirely within a completely enclosed building, the building shall not be considered a scrapyard. (Ord. 732 §2(17)--(19), 1992).

6.09.020 License required

No person shall engage in the business of a scrap dealer without first obtaining a license issued by the city. (Ord. 732 §2(20), 1992).

6.09.030 Application

Applications for scrap dealer's licenses shall be made on a form provided by the city clerk. The application shall state the applicant's name, residential address, business name, address of place of business, type of license applied for and a general description of the goods and/or materials to be purchased, sold, exchanged, traded, recycled or stored. The relevant license fee shall accompany the application. (Ord. 732 §2(21), 1992).

6.09.040 Approval and issuance conditions

Applications for licenses required under this article shall be forwarded by the city clerk to the city council for its review and approval or denial. The city council shall have authority to approve or deny any issuance of licenses required by this article. Upon approval of an application, the city clerk shall issue the license. If a license application is denied by the city council, the license fee shall be refunded to the applicant. (Ord. 732 §2(22), 1992).

6.09.050 License fees

Fees for licenses issued under this article shall be those set forth in the city's business license ordinance. These fees are set forth in Appendix 1. (Ord. 732 §2(23), 1992).

6.09.060 Records to be kept – Contents

All scrap dealers shall keep all records required to be kept under Idaho Code, Section 54-2702. (Ord. 732 §2(24), 1992).

6.09.070 Records – Open for inspection

All records required to be kept under this article shall be made available for inspection by any police officer of the city during normal business hours. No scrap dealer or any of its agents or employees shall refuse to permit any police officer of the city to inspect or copy such records. (Ord. 732 §2(25), 1992).

6.09.080 Records – Retention – Time

All records required to be kept under this article shall be kept for not less than three years. (Ord. 732 §2(26), 1992).

6.09.090 Property holding period before resale

No person licensed under this article shall sell, trade, rent, recycle, destroy otherwise dispose of any scrap valued in excess of five hundred dollars, acquired for the purpose of resale or other conveyance and marked with a manufacturer's identification or serial number, for a period of fifteen days from the date of receiving the property. (Ord. 732 §2(27), 1992).

6.09.100 Storage of scrap – Exceptions

1) Storage Requirements. Scrap dealers shall store all scrap in their possession only in a completely enclosed building or in a scrapyard. If scrap is stored in a scrapyard, the scrapyard shall be separated from anything abutting public street or public sidewalk by an opaque fence or masonry wall. Scrap stored in a scrapyard shall not be stored or stacked to a height exceeding the height of the opaque fence or masonry wall.

2) Exceptions. An opaque fence or masonry wall as described in subsection A of this section shall not be required if all scrap stored in a scrapyard is stored in fully enclosed and operable semi-trailers as defined under the Idaho Code or where the scrap consists only of the following materials:

    a) Securely baled newspapers, magazines or similar paper products;

    b) Securely baled, crushed cardboard containers or similar cardboard products;

    c) Crushed and containerized aluminum cans or similar aluminum products;

    d) Containerized glass bottles or jars or similar glass products; or

    e) Crushed and containerized plastic bottles or similar plastic products. (Ord. 732 §2(28), 1992).

6.09.110 Compliance with the law

Persons licensed under this article shall conduct their business in compliance with all applicable federal, state and city laws, ordinances and regulations. (Ord. 732 §2(29), 1992).

6.09.120 Severability

The sections and subsections of this ordinance are severable. The invalidity of any section or subsection shall not affect the validity of the remaining sections or subsections. (Ord. 732 §4, 1992).

CHAPTER 6.10 TOWING AND BOOTING

6.10.010 Definitions

As used in this article:

1) Authorized Vehicle: means a motor vehicle parked on private property for which permission has been granted or an invitation extended to park such vehicle.

2) Boot: means a device used by a towing or parking Enforcement Company to temporarily immobilize or disable a motor vehicle for purposes of enforcing parking restrictions.

3) Parking Enforcement Company: means a business entity engaged in the practice of immobilizing (booting), or otherwise disabling vehicles for the purpose of enforcing parking restrictions either on public streets, private property, or public parking lots restricted as to use.

4) Parking Enforcement Operations: means the business of enforcing parking regulations for compensation within the corporate limits of the City of Rexburg by booting motor vehicles.

5) Person: means an individual, a firm, a partnership, a corporation, a company, an association, or a joint stock association.

6) Regular Business Hours for purposes of this Ordinance shall as a minimum be from 9:00 a.m. to 5:00 p.m. on Monday through Friday excluding State recognized holidays, or those hours posted at the place of business if they exceed these hours.

7) Towing Company: means a business entity engaged in the practice of towing vehicles.

8) Tow Truck: means a motor vehicle which has been altered or designed, equipped and primarily used for the purpose of towing vehicles by means of crane, hoist, tow bar, tow line, chain, or dolly, or consistent with current practices of the towing industry.

9) Towing Operations: means the business of towing for compensation motor vehicles within the corporate limits of the City of Rexburg, whether or not the towing extends beyond the city limits. Such business shall also include the storage of towed vehicles, pending their return to the owner thereof by the person or his agent who towed such vehicle. (Ord. 911 §1, 2005).

6.10.020 License required

It is unlawful for any person to engage in commercial towing operations or parking enforcement operations within the corporate limits of the City of Rexburg, excepting such operations authorized by the Rexburg City Police Department, unless the person operating such business has applied for and obtained a license to do so. Such license shall be applied for, granted and maintained in compliance with the provisions of this chapter. (Ord. 911 §2, 2005).

6.10.030 Application

An application for a license hereunder shall be filed in writing with the City Clerk or the designated city employee and shall specify:

1) The name and address of the applicant, and if a firm, corporation, partnership, association or club, the principal officers thereof and their addresses;

2) If the applicant is a partnership, the requirements of the preceding section shall be given regarding each member of the partnership, together with the managing partner's name;

3) If the applicant is a corporation, the information required by subsection 1 of this section shall be given for each officer and active member of the corporation;

4) The name and location of the principal place of business; and

5) A statement disclosing whether any person listed in the application has ever been convicted of a felony or misdemeanor, and if so, the nature of the offense, and where and when it was committed. (Ord. 911 §3, 2005).

6.10.040 Issuance and renewal conditions

Upon receipt of a completed application, a license may be issued to towing or parking enforcement companies which have a principal place of business within the corporate limits of the City of Rexburg, upon proof being presented that the applicant has met and will continue to meet the following requirements:

1) Comply with the current Department of Transportation rules and regulations for tow truck operators;

2) Maintain each tow truck during the policy term of the license in accordance with all applicable DOT regulations;

3) Provide competent evidence of valid property damage liability insurance, on hook or cargo coverage and garage keepers coverage as applicable, issued by an insurance company authorized to do business in the State of Idaho in the minimum amounts required by State law or $50,000 whichever is greater, issued with applicant named as an insured, including the policy number and insurance company name.

    a) A copy of such insurance policy or a certification from the insurer as to duration, kind and extent of insurance, shall by kept on file with the City business license department.

    b) The licensee or his insurance agent shall notify the City of Rexburg of any termination or change of policy. Failure to do so shall be grounds for suspension or revocation of any business license issued under this chapter.

4) Affix permanent readable signs on the doors of any tow truck or parking enforcement vehicle listing the name of the applicant's business, address and telephone number;

5) Provide competent evidence that the towing company stores motor vehicles in a secure fenced area, enclosed yard or building within the City limits, unless otherwise required by the State of Idaho;

6) Ensure that all tow trucks and parking enforcement vehicles are operated by personnel carrying a valid Idaho driver=s license which authorizes operating a tow truck. Parking enforcement companies which do not provide towing services shall be operated by personnel carrying a valid Idaho driver's license and a company identification card identifying the driver as an employee of the parking enforcement company;

7) Provide competent evidence that all business operations have been conducted in a fair, equitable and lawful manner;

8) File with the City of Rexburg a list of current fees for all non consensual services covered by this Ordinance and performed by the company. (Ord. 911 §4, 2005).

6.10.050 License fees

The fee for a business entity desiring to provide towing services and/or parking enforcement services within the City of Rexburg shall be set forth in Appendix 1. Such fee shall be assessed in consideration of the expense incurred by the City to conduct required background checks prior to issuing a license and in recognition of costs incurred by the police department in responding to incidents involving towing and parking enforcement companies. (Ord. 911 §5, 2005).

6.10.060 Duty to display license

Every tow truck operator or parking enforcement employee shall carry upon his person:

1) A valid Idaho driver's license which allows for operation of a tow truck (if towing services are to be performed);

2) Evidence of a valid license issued by the City of Rexburg;

3) A company business card giving the name, address and phone number of the company, and each operator shall provide upon request, proof of identity; and

4) All other identification required by law. (Ord. 911 §6, 2005).

6.10.070 Investigation by Police Department

1) Each application for a license hereunder shall be referred to the Chief of Police who may investigate to determine compliance with the requirements set forth the Rexburg City Ordinances.

2) Background checks may be conducted on all employees of the entity desiring to obtain a license under this section.

3) If a background check discloses a criminal history, or any current conduct that would threaten the health, welfare or safety of the public, a license may be denied or revoked by the

Chief of Police. Any person aggrieved by a decision of the Chief of Police may appeal such decision to the Rexburg City Council. (Ord. 911 §7, 2005).

6.10.080 Towing sign requirements for non-residential commercial lots

Signs as described in this Ordinance shall be posted in parking lots open to the public but restricted as to use. Such signs shall be posted in a conspicuous place giving notice that clearly indicates towing will be used, and that parking is restricted. (Ord. 911 §8, 2005).

6.10.090 Non-consensual towing and booting practices on multi-unit residential private properties

1) To authorize monitoring of towing and booting by third parties; all of the following conditions must be met:

    a) Visitor Parking: Properties with less than 10 on-site parking spaces shall not be required to provide visitor parking. Properties with 10 or more on-site parking spaces must provide visitor parking equal to 3% of the number of onsite parking permits or spaces (with a minimum of one visitor parking space).

    b) Visitor parking stall(s) must be conveniently located.

    c) Tenants using Visitor parking after BYU-I curfew: Tenants will not be allowed to park in visitor parking except during the following times:

        i) From (30 minutes) after the nightly curfew of BYU-I until the beginning of BYU-I visiting hours the next day for student housing complexes.

        ii) Non-student complexes may set convenient visiting hours.

    d) Visitor parking times may be variable but not less than 10 minutes.

    e) Visitor parking areas must have adequate and visible signage and text. Signs must be at least 12” x 18” and include the words “Visitor Parking Only”, “Permit Parking only during ** A.M. to ** P.M.” (based on current BYU-I curfew and visiting hours), and “All others may be booted and/or towed”

    f) Parking Permits: Properties may only issue parking permits equal to the number of available spaces (on and/or off-site parking).

    g) Offsite parking: There shall be no limit to offsite parking. There shall be no restriction on distance from the residential complex to the offsite parking for residential complexes legally existing on the effective date of this ordinance. There shall be no required visitor parking for areas designated as offsite parking.

2) Owners of multi-unit residential private property may, to the extent authorized by this section, boot or tow away any unauthorized vehicle on their premises. An unauthorized vehicle is any vehicle that is parked or stopped, in violation of any private property parking

regulations which govern parking for authorized tenants and visitors and which restricts parking in loading zones, handicapped zones, fire lanes, and no parking zones only.

3) Except as provided in Section 9 (A) above; It shall be unlawful for any person, firm or corporation to boot or tow away any motor vehicle on any authority other than by the direct request of the owner, authorized agent of the owner, or a Rexburg City Police officer present at the location from which the motor vehicle is to be removed. The towing of any vehicle shall be reported to the Rexburg City Police or the Madison County Dispatcher within one half hour thereof, using the current published non-emergency telephone number of the police department or dispatch. The report shall include:

    a) The make and license number of the motor vehicle being impounded or towed;

    b) The name of the person, firm or corporation impounding or towing;

    c) The location from which the motor vehicle was taken; and

    d) The location where the subject motor vehicle will be kept and the twenty-four (24) hour phone number which an owner can call to arrange for release of the vehicle.

4) Any towing or parking enforcement company desiring to operate within the City of Rexburg under the provisions of this section shall:

    a) Obtain a business license pursuant to the requirements of this Ordinance.

    b) Register its business name, address, telephone number, and fee schedules with the Rexburg Police Department. In the event of a change in business name, address, telephone number, or fee schedules, such company shall register such information with the Rexburg Police Department and City offices within ten (10) days. It shall be unlawful for any towing or parking enforcement company to operate within the City of Rexburg without obtaining the required business license and providing the information required herein to the Rexburg Police Department.

5) No person shall have the right to boot or tow a motor vehicle from a private parking lot having four (4) or more parking spaces, other than a vehicle which has been continuously parked in such a lot for more than seventy-two (72) hours, unless a conspicuous sign posted on, or immediately adjacent to, the property provides notice that vehicles will be booted or towed from the parking lot if not authorized to be parked in the parking lot. Such signs shall:

    a) Be at least eighteen inches (18") by twenty-four inches (24") in size for primary signs and allowing for secondary signs to be twelve inches (12") by twelve inches (12");

    b) Give adequate warning, in large lettering, that improperly parked vehicles will be booted or towed,

    c) Provide sufficient information to assist vehicle owners in the prompt recovery of any vehicle booted or towed,

d) Give the name, telephone number and location of the firm(s) authorized to boot or tow vehicles,

e) Be posted within five (5) feet, of each entrance to a parking lot.

i) For purposes of this subsection, a parking lot entrance shall mean any access allowing the entrance or exit of a vehicle between a private parking lot and a city street unless such access is not the property of the parking lot owner. In such case, the parking lot entrance shall mean:

(1) the intersection of the parking lot property line and the property line of the access point, or

(2) any privately owned road connected to a public right-of-way leading to the entrance of a parking lot located on private property.

ii) A sign posted directly over a driveway leading to an underground lot shall be deemed to meet the location requirements of this subsection.

iii) If signs cannot be posted within 5 feet from the entrance to a parking lot for reasons of practical difficulty (such as the necessity of drilling a hole through concrete, removing a tree or shrubs, or because of an immediately adjacent private driveway not owned by the owner of the parking lot), a sign may be placed as close as reasonably practicable to the parking lot entrance. However, no sign shall be further than 30 feet from the edge of the curb that borders the private property.

6) Any person acting to remove or otherwise disturb any motor vehicle parked, stalled or otherwise left on privately owned or controlled property, and any person owning or controlling such private property, or either of them, shall be liable to the owner, operator or driver of a motor vehicle, or each of them, for consequential and incidental damages arising from any interference with the ownership or use of such motor vehicle which does not comply with the requirements of this section.

7) Before booting:

a) Except as provided in Section 9 (A) above: Before booting or towing a vehicle located on private property a parking enforcement or towing company shall:

i) Receive from the property owner or his authorized agent, who shall not be affiliated in any way with the parking enforcement or towing company, a signed request for each booting or towing of a particular vehicle;

ii) Post a copy of a schedule of fees in a prominent place at the business location where vehicles are released from storage. Upon request, the company shall show a current copy of fee schedule to a person whose vehicle is being towed or booted.

iii) Maintain personnel authorized to release any vehicle to its owner twenty-four (24) hours each day. A vehicle shall be released within fifteen (15) minutes of receipt of

payment during regular business hours, or within sixty (60) minutes of initially contacting the towing or parking enforcement personnel after business hours and payment being made of any required fees authorized by this section.

iv) If any vehicle booted or towed pursuant to this section remains unclaimed after forty-eight hours, the towing or parking enforcement personnel shall follow all applicable State regulations with respect to such vehicle.

(1) In the event such certified letter is refused or returned to the sender unclaimed, the notification to the law enforcement agency as provided in subsection 2 of this section shall constitute actual notice to the registered and legal owner(s) of the vehicle.

(2) The effect of other laws notwithstanding, the costs of booting, towing, storing or other services rendered during the course of booting, removing, impounding or storing any motor vehicle shall not constitute a lien upon the legal ownership of such motor vehicle until forty-eight hours after the notice required by this subsection has been received by the local law enforcement agency or owner of the vehicle, at which time the lien may be enforced as otherwise provided by law for the enforcement of towing or storage liens or liens general.

(3) Any such lien shall not exceed the total of the actual costs of storage or any other services rendered by the parking enforcement or towing company.

(4) If the towing company assesses a fee according to the miles a vehicle is towed, the lien shall be, and the towing company shall attempt to recover, no more than the fees that would accrue for towing to the nearest storage locations under the control of the towing company.

v) No storage fees shall begin to accrue for the first twenty four (24) hours after a vehicle is towed pursuant to this section.

b) Failure to comply with any of the provisions of this subsection with regard to any particular vehicle shall waive the lien on such vehicle insofar as the failure resulted in additional fees, and shall be grounds for the suspension or revocation of the license of any parking enforcement or towing company.

8) Any parking enforcement or towing company booting or towing a motor vehicle pursuant to this section shall release such vehicle to its owner or authorized agent immediately upon payment sufficient to cover actual costs incurred in booting, towing, storing or providing other services rendered as the result of booting or towing the vehicle as provided in this section.

a) The parking enforcement or towing company shall accept payment offered in cash, or be willing to wait up to 15 minutes while cash is retrieved; however, the parking enforcement or towing company shall not be obligated to accept checks or payment in coins and shall maintain sufficient cash on hand to make change of up to forty dollars ($40.00).

b) Every parking enforcement and towing company providing services pursuant to this section shall post in a conspicuous place upon its business premises a true copy of this section.

c) A parking enforcement company that utilizes booting practices instead of towing shall be limited to a maximum fee for booting of one-half the current maximum fee established by the Idaho Department of Transportation for towing services for class A and B vehicles. A towing company shall be limited to the maximum fees for services established by the City of Rexburg if established.

d) If the registered owner or authorized agent arrives at a vehicle before the parking enforcement or towing company has finished booting the vehicle and the required paperwork or before a tow truck operator has the vehicle in tow, the parking enforcement or towing company shall be entitled to only one-half the regularly charged fee for booting or towing a vehicle. The representative of the parking enforcement or towing company shall not be required to wait for any longer than fifteen (15) minutes for the owner or authorized agent to produce the necessary payment to obtain the release of the vehicle.

9) Property owners, managers, or their agents shall not receive any consideration whatsoever from any parking enforcement or towing company in exchange for utilizing such company's services to boot or tow unauthorized vehicles from the owner's property or for entering into a services contract with a parking enforcement or towing company. (Ord. 911 §9, 2005).

6.10.100 Violation – Penalty

Any person who violates or fails to comply with any of the provisions of this Ordinance or who, having obtained a license hereunder, willfully fails to continue to comply with he conditions set forth in this ordinance is guilty of a misdemeanor, and upon conviction thereof, may be fined in accordance with State Statutes. (Ord. 911 §10, 2005).

6.10.110 Repeal

All ordinance and parts of ordinance in conflict with this ordinance are hereby repealed. (Ord. 911 §11, 2005).

6.10.120 Severability

The provisions of this ordinance are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutional or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt therefrom. (Ord. 911 §12, 2005).

CHAPTER 6.11 RENTAL REGISTRATION

6.11.010 Purpose

The purpose of this Ordinance is to promote the peace, health, safety, welfare and tranquility of the community and citizens of the City of Rexburg by identifying all residential rental properties within the City and registering such, and ensuring equal and comprehensive enforcement of existing City rules and regulations. Furthermore, this Ordinance shall provide for a means of tracking the physical facilities associated with each properties [sic] in order to maintain consistency from year to year. (Ord. 975, §1, 2007).

6.11.020 Regulations

Within the City Limits of Rexburg, the following rules and regulations shall apply to all residential rental properties as defined in Ordinance 975. (Ord. 975, §2(part), 2007).

6.11.030 General provisions

1) Citation. This compilation and revision of the general ordinances of the city constitutes the official code of the general ordinances of the city of Rexburg. The ordinance may be cited as the "Rexburg Residential Rental Registration Code."

2) Intent. It is declared to be the intention of the mayor and the city council that the sections, paragraphs, sentences, clauses and words of this code are severable, and if any word, clause, sentence, paragraph or section of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining words, clauses, sentences, paragraphs and sections of this code, since the same would have been enacted by the mayor and the city council without the incorporation in this code of any such unconstitutional word, clause, sentence, paragraph or section.

3) Title, chapter and section headings. Title, chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

   Provisions considered as continuations of existing ordinances. The provisions appearing in this ordinance, so far as they are the same as those of ordinances existing at the effective date of this code, shall be considered as continuations thereof and not as new enactments.

4) Effective date. This ordinance shall become effective upon the date of publication after the passage of this ordinance by the Rexburg City Council.

5) Constitutionality. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been

declared invalid or unconstitutional, and if for any reason this code shall be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect. (Ord. 975, §2(RR.01.010 – RR.01.060), 2007).

6.11.040 Definitions

Generally. The following words and phrases, when used in this chapter, shall have the following meanings respectively ascribed to them in this section.

1) Apartment or residential rental unit: means a dwelling unit or suite of rooms that are designed to be occupied for living purposes, rented on a monthly or longer basis.

2) City: means the city of Rexburg, Madison County, state of Idaho.

3) Employee: for the purposes of this chapter, means any person employed by a Business including active owners, managers, active partners and agents, also including sales persons and all persons engaged in or associated directly with the management and operation of the property concerned. The intention is to include as "employees" all persons hired by, or working for the property involved, and to include owners and proprietors within the designation. In case of part-time employees, the number of full-time equivalent employees will be determined by dividing the total number of hours worked by all part –time employees by two thousand eighty.

4) Hotel, motel, roominghouse or lodginghouse: means any building or buildings containing guest rooms intended to be rented or hired out for sleeping purposes for periods less than thirty (30) consecutive days.

5) Mayor: means the mayor of the city.

6) Nonprofit organization: means any religious, charitable, social, educational, or civic group which does not distribute profits or dividends to the members thereof and where profit is not their object.

7) Office: means a room or building in which a person transacts his business or carries on his stated occupation.

8) Person: means a corporation, partnership, company, association, or society as well as a natural person and the agents and representatives thereof.

9) Residential Rental: means a dwelling unit or suite of rooms that are designed to be occupied for living purpose, rented on a monthly or longer basis.

10) Temporary premises: means any hotel, roominghouse, storeroom, building, or any part of any building whatsoever, tent, vacant lot, freight station, railroad car, motor truck, trailer or other vehicle or any public or quasi -public place temporarily occupied for the purpose of transacting business.

11) Trailer court or mobile home park: means a tract of land providing two or more mobile home lots for lease or rent to the general public.

12) Year: for general city business registration purposes, means a period of time of twelve months commencing each year on January 1st and ending the last day of December of the same year. (Ord. 975, §2(RR.02.010 – RR.02.120), 2007).

6.11.050 Registration requirements

For the protection and general welfare of the inhabitants of the city, every Residential Rental in excess of one rental unit per parcel operated within the city comes within the police power of the city, and no person shall engage in the operation of a Residential Rental, Apartment House or Apartment without first registering unless exempt under this Ordinance or exempted by state law. The charge for such registration shall be as fixed in Section RR.03.030 unless otherwise provided in this code. Money received from registration shall be used to defray the expense of issuing the registration and the physical facilities review, regulation and control of Residential Rental, Apartment House or Apartment within the city. This registration requirement is intended to apply to all entities operating a Residential Rental, Apartment House or Apartment within the city unless the entity is otherwise expressly excluded in this chapter from this requirement. (Ord. 975, §2(RR.03.010), 2007).

6.11.060 Registration – Application – Issuance procedure

The city clerk shall be charged with the collection of all Residential Rental, Apartment House or Apartment registration fees required by the city. The city clerk shall provide an application form in substantially the same format as addendum "A" to Ordinance 975 for the purpose of facilitating registration. As directed by the city clerk, each applicant for registration shall file with the city clerk an application in writing on the form provided for such registration application. (Ord. 975, §2(RR.03.020), 2007).

6.11.070 Registration – Fees – Schedule

The schedule of fees for registration of a Residential Rental, Apartment House or Apartment shall be set forth in the Business Registration Fee Schedule, and may be amended from time to time by Resolution of the Rexburg City Council in accordance with applicable State laws. (Ord. 975, §2(RR.03.030), 2007).

6.11.080 Registration – Fees – Refund

If an application for a registration is denied, the fee that accompanied the application shall be returned to the applicant in its entirety except for fees associated with inspection in aid of granting or rejecting the registration. (Ord. 975, §2(RR.03.040), 2007).

6.11.090 Registration – Term – Proration

All business registrations shall be annual, unless otherwise specified. All applicants for registration shall pay the annual fee irrespective of the point in the year at which the registration is sought. (Ord. 975, §2(RR.03.050), 2007).

6.11.100 Registration – Separate registration required

A registration shall be obtained for each individually identifiable location, irrespective of ownership. (Ord. 975, §2(RR.03.060), 2007).

6.11.110 Business – Change of ownership

Whenever a Residential Rental, Apartment House or Apartment changes ownership, the new owner shall report such change to the city clerk so that the registration may be transferred. (Ord. 975, §2(RR.03.070), 2007).

6.11.120 Interpretation of provisions – Unlawful business

The registration provisions of this chapter shall not be construed to grant permission to carry on or conduct any unlawful business, or to operate any Residential Rental, Apartment House or Apartment in an unlawful manner, or to grant immunity to any entity from lawful regulation and control, or to authorize the violation of any zoning ordinance, regulation, or restriction. (Ord. 975, §2(RR.03.080), 2007).

6.11.130 Right to refuse or revoke registration

Whenever the council deems it in the public interest, it may, by resolution adopted by a majority vote of the members of the council and approved by the mayor, refuse to authorize the issuance of any registration provided for in this chapter, the council may also, upon a majority vote of members of the council and approved by the mayor, revoke any registration issued under this chapter if deemed in the public interest to do so. (Ord. 975, §2(RR.03.090), 2007).

6.11.140 Parking space management

Each Residential Rental, Apartment House or Apartment must inventory all approved parking spaces, and issue contractual obligations relative to all such parking spaces. No agreements for tenancy shall be executed on behalf of the owner, operator or their agents, relative to a Residential Rental, Apartment House or Apartment without affirmatively designating whether the same has a parking space available. (Ord. 975, §2(RR.04.010), 2007).

6.11.150 Parking space restrictions

All designation of available parking as referenced in Section 6.11.140 above must have an approved parking space associated with the designation such that if all designated tenants were to park a vehicle there would be adequate spaces. No allowance for absenteeism shall be allowed. For each agreement containing an affirmative designation of parking space, there must be a space. (Ord. 975, §2(RR.04.020), 2007).

6.11.160 Non-parking agreements

Any agreement for tenancy in a Residential Rental, Apartment House or Apartment which is not specifically designated as a “Parking Space” agreement, there must be an affirmative statement notifying the parties to the agreement that there is no overnight, on site parking provided in connection with the agreement. (Ord. 975, §2(RR.04.030), 2007).

6.11.170 Owner responsibility

Any owner, employer or other person in charge of a Residential Rental, Apartment House or Apartment, shall be responsible for insuring to the best of their ability that all provisions of this Ordinance are complied with. (Ord. 975, §3, 2007).

6.11.180 Violation – Penalty

1-) Any person who violates a provision of this chapter shall be guilty of a misdemeanor, and shall be subject to fines or by imprisonment, or by both such fine and imprisonment consistent with Idaho Code, Section 18-113, as amended.

2-) Upon a second conviction within a three year period, the person shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and be fined no less than One Hundred Dollars ($100.00) in conjunction with any other sentence or costs deemed appropriate by the Court.

3-) Upon a third or greater conviction within a three year period, the person shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and be fined no less than Two Hundred and Fifty Dollars ($250.00) in conjunction with any other sentence or costs deemed appropriate by the Court. (Ord. 975, §4, 2007).

TITLE 7 ANIMALS

Title 7 sets forth the restrictions and requirements concerning the keeping, licensing, impoundment and destruction of animals.

For statutory provisions concerning animals in general, see Idaho Code Title 25; for provisions concerning the mistreatment of animals, see Idaho Code Ch. 18-21; for provisions authorizing a city to control, license and dispose of animals within its jurisdiction, see Idaho Code §50--319.

CHAPTER 7.01 LIVESTOCK*

*Note to Chapter 7.01: Ordinance History: Ords. 9, 142, 223 and 272.

7.01.010 Leading, riding or driving of animals on public grounds and in city parks

It is unlawful for any person or persons to lead, ride or drive any animal whatsoever, whether such animal be attached to a vehicle or not, along, across or upon the public ground known as city park in the center of the city, or on streets or other public ground where the same has been seeded to grass or other decorative vegetation, or to propel or drive any vehicle along, across or upon public grounds or parks. (Ord. 272 §120, 1919).

7.01.020 Livestock at large prohibited – Penalty

It is unlawful for any person or persons owning livestock to allow any cattle, horses, sheep, hogs or other animals to run at large within the limits of the city. Any person violating any of the provisions of this section is deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 272 §121, 1919).

7.01.030 Driving stock off range restrictions

It is unlawful for any person or persons to drive stock of any kind off the range over which the person or persons have no control, or, without the permission of the owner, into the city limits for any purpose whatsoever, unless the person or persons, without unnecessary delay, return the stock so driven in the direction from which the person or persons brought them beyond the city limits. (Ord. 9 §1, 1899).

7.01.040 Violation – Penalty of Section 7.01.030

Any person or persons violating any provisions of Section 7.01.030 shall, on conviction thereof, be deemed guilty of a misdemeanor and be punishable as set forth in Chapter 1.05.020 of this code. (Ord. 9 §2, 1899).

CHAPTER 7.02 DOGS*

*Note to Chapter 7.02: For statutory provisions related to dogs and requiring the licensing of same, see Idaho Code Ch. 25-28.

**Ordinance History: Ords. 411, 581, 816 and 841.

7.02.010 Licensing of dogs

It shall be unlawful for any person or persons to own, keep or harbor, any dog, male or female over 3 months of age within the City of Rexburg without obtaining a license. The fine for not having a license for a dog will be set forth in Appendix 3. (Ord. 841 §1, 2001).

7.02.020 Amount of license

Licenses will he provided free of charge for all dogs residing within the City of Rexburg. These licenses shall he valid for the life of the animal on condition that the on provides appropriate change of address forms or change of ownership forms to the Police department. Failure to provide change of address or ownership notification to the Police department within 30 days of such change will be punishable by a fine set forth in Appendix 3. (Ord. 841 §2, 2001).

7.02.030 Issuance of license

The Police department shall issue a license to the dog owner and shall maintain the following information regarding the license: the date of issue, the name and address and phone number of the owner, the name, age and sex of the log; a description of the dog and the number of the license. The Police department shall furnish with each license a metal tag which shall be stamped with the number corresponding to the number of the license. (Ord. 841 §3, 2001).

7.02.040 Metal tag requirement

The metal tag, as described in Section 7.02.030 of the codification, shall be attached to a collar and the collar kept on the neck of the dog. Failure to keep proper identification on the dog will be punishable by a fine set forth in Appendix 3. (Ord. 841 §4(part), 2001).

7.02.050 Unlicensed dogs – Impoundment

All dogs not licensed and collared as provided in Sections 7.02.010, 7.02.020, 7.02.030 above, are declared to be a public nuisance, and it is the duty of all police officers and the pound master to take up and impound any dog not so licensed and collared. The fine for not having appropriate license will be set forth in Appendix 3. (Ord. 841 §5, 2001).

7.02.060 Disturbing the peace

It is unlawful for any person to own keep or harbor within the limits of the City, where tethered, caged or otherwise, any dog which by barking, howling, yelping, whimpering or whining, or by the making of other noises, disturbs the quiet of any neighborhood or person. Disturbing the peace determination will be made by a law enforcement officer after an investigation of said complaint. Violation of this section of the Ordinance will punishable as set forth in Appendix 3. (Ord. 841 §6, 2001).

7.02.070 Running at large restrictions

1) Except as provided by Section 7.02.080, it is unlawful for any person to cause, permit or allow any dog, whether licensed or not, to roam, run or stray away from the premises of the owner, unless:

    a) Such dog be in the charge of the owner or some duly authorized and competent person and while controlled by a leash or chain not exceeding ten feet in length.

    b) Such dog is safely and securely confined or completely controlled while in or upon any motor vehicle,

    c) Such dog is on any other premises with the consent of the person in possession of such premises.

2) Failure to keep the dog under control will be punishable by a fine set forth in Appendix 3. (Ord. 841 §7, 2001).

7.02.080 Running at large exception

The City Council may designate such areas of a public park, or other city owned land for the training or exercise of dogs, or holding dog shows or exhibition. Dogs within such areas need not be controlled by leash or chain, but shall be under the control of a responsible person and controlled by whistle, voice or other effective command. Failure to comply with this section will be punishable by a fine set forth in Appendix 3. (Ord. 841 §8, 2001).

7.02.090 Leash requirements – Feces disposal – Exception

It shall be unlawful for any person to bring or harbor any animal in the Parks, except as may be allowed pursuant to established leash laws for the City of Rexburg. (Ord. 968, §6(c), 2006).

It shall be unlawful for any person to bring or harbor any animal in the parks, unless upon a leash or under the control of a handler at all times. It is unlawful for the owner or person having charge, custody or control of any dog to fail to immediately remove any feces deposited by such dog upon public or private property or right-of-way and dispose of the feces in a sanitary manner and depositing the same in a trash receptacle. The provision of this section shall not apply to any fecal matter deposited by a dog on the property of a dog's owner, custodian, controller, or to a blind person being accompanied by a guide dog. (Ord. 816 §6(C), 1999).

7.02100 Cruelty prohibited

It is unlawful for any person to maltreat or torture any dog animal, or having the right or authority to kill any dog animal, to kill the animal in an inhumane manner. (Ord. 841 §18, 2001).

7.02.110 Public disposition of animals

It shall he unlawful to give away animals at any place of business or on City owned land within the city limits without first obtaining a permit from the Rexburg Police Department. The form to

be completed for approval of permit application is available at the city hall or as Appendix 8 in this code. The fine for violating this section shall be set forth in Appendix 3. (Ord. 841 §19, 2001).

7.02.120 Abandonment of animals

It shall be unlawful to abandon animals within the city limits or to abandon city animals in the surrounding area. The fine for this offense shall be set forth in Appendix 3. (Ord. 841 §20, 2001).

7.02.130 Definition of owner

The term owner as used in this ordinance shall be construed to mean and include any person, persons, association, business entity, or corporation owning, harboring or keeping a dog or dogs within the corporate limits of the City of Rexburg Idaho. (Ord. 841 §21, 2001).

7.02.140 Violation – Penalty

Any persons or persons violating the provisions of this Ordinance shall be guilty of an infraction and shall be punishable as indicated in each section. In addition, all found guilty will be assessed court costs. (Ord. 841 §22, 2001).

7.02.150 Repealing ordinances

Ordinance Nos. 581, 411, Chapter 35 of Revised Ordinances, and all ordinances or portions of ordinances in conflict herewith are hereby repealed. (Ord. 841 §23, 2001).

CHAPTER 7.03 HOUSEHOLD PETS

7.03.010 Maximum pet restrictions

Small animals including fish or fowl permitted in the house or yard and kept for company or pleasure, such as dogs, cats, rabbits, canaries, parrots, parakeets, or goldfish. Under no circumstance shall more than 5 mammals or reptiles be allowed at one time, except that direct offspring shall be allowed for up to 3 months. (Ord. 926 (part), 2005)

7.03.020 Domestic fowls running at large

It shall be unlawful for any person owning or having in his possession any chicken, chickens, duck, ducks, goose, geese, turkey, turkeys, or other domestic fowl, within the city of Rexburg, to willfully or negligently permit the same to run at large or trespass upon the premises belonging to another , or to stray beyond the bounds of the yard or premises belonging to or in control of the owner of such chicken, chickens, duck, ducks, goose, geese, turkey, turkeys or other domestic fowl. (Ord. 194 §1, 1916).

7.03.030 Domestic fowls confinement

It shall be the duty of every owner or possessor of any domestic fowl mentioned in section one hereof, to confine the same within the yard or premises owned or occupied by such person

during their season commencing with the first day of April and ending with the first day of October of each and every year. (Ord. 194 §2, 1916).

7.03.040 Domestic fowls Violation – Penalty

Any person violating any of the provisions of sections 7.03.020 and 7.03.030 shall be fined in a sum not exceeding the sum of $25.00, and costs of court. (Ord. 194 §3(part), 1916).

CHAPTER 7.04 IMPOUNDMENT*

* Note to Chapter 7.04: Ordinance History: Ords. 15, 225, and 841.

7.04.010 Purpose

A pound shall be established within the city limits for the purposes of impounding animals running at large within the city limits. (Ord. 15 §2, 1899).

7.04.020 Pound – Location and specifications

The chairman of the city council, by and with the consent of the council, shall select a location for the pound and prescribe the strength, capacity and height thereof. (Ord. 15 §3, 1899).

7.04.030 Animals running at large – Prohibited

It is unlawful for any animal or animals to run at large on any of the streets, alleys or public places within the city limits. (Ord. 15 §1, 1899).

7.04.040 Taking animals from pound or official custody prohibited – Penalty

Any person or persons guilty of breaking the city pound or taking therefrom any cattle, horses, sheep, swine or other animals that have been impounded, or shall take or attempt to take the same from the city poundkeeper or his deputies while on the way to the pound, shall, upon conviction thereof, be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 225 §1, 1919).

7.04.050 Poundkeeper designated duties

The city marshal is made poundkeeper for the city, and it shall be his duty to impound all stock or animals running at large within the city limits; he shall drive the animal or animals to the pound and claim such fees as are provided for in Section 7.04.100 of this chapter. (Ord. 15 §4, 1899).

7.04.060 Impounded animals – Notification for redemption or sale at public auction

The poundkeeper shall, within twenty-four hours after impounding any animal or animals, notify the owner thereof, if known to him, and collect payment of all charges thereon, and if the animal or animals are not taken away and all charges thereon paid within three days from date of impounding, the poundkeeper shall give notice of all such animal or animals impounded by publishing a full description of the same in two issues of some newspaper of general circulation

within the city. He shall describe the kind of animal, its age as near as possible, all natural marks thereon, and all brands thereon, to the best of his knowledge; he shall also give notice that the animal or animals will be sold, to defray all expenses thereon, at public auction, to the highest responsible cash bidder, in twenty days after date of impounding said animal or animals, giving the date when said animal or animals were impounded and the date and place where such animal or animals will be sold, unless such animals or animals are claimed and charges thereon paid before the date set for their sale. (Ord. 15 §5, 1899).

7.04.070 Animals sold at auction – Moneys held in trust or paid to general fund

The city clerk-treasurer shall return all moneys paid to him from the sale of animals sold in trust for the owner of the animals sold, and if not claimed by the owner of the animals sold within six months from date of the sale, the clerk-treasurer shall then pay the money into the general fund of the city. (Ord. 15 §7, 1899).

7.04.080 Impounded animals – Recordkeeping

The poundkeeper shall keep a record of all animals impounded, all natural marks and brands thereon, the date when impounded, date when redeemed, (if redeemed), by whom claimed and redeemed, the date when advertised, (if advertised), the date when sold, (if sold), to whom sold, for what amount sold, all expenses accrued thereon by reason of seizure and impounding, feed, advertising, sale and branding, and the balance of moneys paid over to the city clerk--treasurer. The poundkeeper shall deliver to the clerk--treasurer a copy of the record at the end of each calendar month, and the copy of the record shall be kept on file in the clerk--treasurer's office. (Ord. 15 §11, 1899).

7.04.090 Impoundment – Duties of Policemen and Poundmaster

It shall be the duty of all police officers and the poundmaster to seize and impound any dog found to be running at large as provided in Section 7.02.070. (Ord. 841 §9, 2001).

7.04.100 Notice of impoundment and redemption of licensed dogs

1) The owner of every licensed dog so seized and impounded shall be notified by the police department telephonically within 24 hours of seizure or in writing within 48 hours. Telephonic notice shall be sufficient when the police officer speaks directly with the owner or written notice shall be sufficient when it identifies tile dog by license number, states the date and the place of seizure, is placed in a sealed envelope addressed to the owner of the dog at his residence as appears on the application for the license, and is deposited in the United States mail, postage prepaid.

2) Every licensed dog so seized shall be retained in the pound for a period of five days after notice is made telephonically or mailed to the owner of the dog. At any time while the dog is impounded, the owner or keeper may redeem the dog by paying to the sum set forth in Appendix 3. This will not relieve the owner from appearing in the Magistrate's Division of the District Court for Madison County to answer any charges that may be filed against him for violating any provision of this ordinance. Failure to redeem the dog will subject the owner to a penalty set forth in Appendix 3. (Ord. 841 §10, 2001).

7.04.110 Impoundment and redemption of unlicensed dogs

All dogs seized and impounded that do not have a collar and license as provided in Sections 7.02.010, 7.02.020, 7.02.030 and whose ownership is unknown to the police department or the poundmaster, shall be retained in the pound for a period of 72 hours, during which time the dog may be released on payment of the pound fee set forth in Appendix 3 and obtaining a license. This will not relieve the owner from appearing in the Magistrate's Division of the District Court for Madison County to answer any charges that may he filed against him for violating any provision of this Ordinance. Failure to redeem the dog will subject the owner to a penalty set forth in Appendix 3. (Ord. 841 §11, 2001).

7.04.120 Citation – In lieu of impoundment

In lieu of seizing and impounding any dog found to be running at large in violation of Section 7.02.070 (the Leash Law), the police officer or poundmaster may, if the owner of the dog is known, issue a citation that shall meet the following requirements: Must have consecutive serial numbers, space to provide date, time and location of offense name and address of the owner, and the offense by brief description. (Ord. 841 §12, 2001).

7.04.130 Citation – Issuance

The citation shall he issued by the police officer or the poundmaster by handing a copy of the original to the owner, or by mailing him a copy as provided by Section 6.02.040. If the owner does not appear before the Magistrate with the citation within five days after he has been notified of the offense, the police officer or the poundmaster who issued the citation shall prepare a formal complaint, charging the owner with the offense, including whether it be a first, second, third or subsequent offense, and present the same to the court for the issuance of a warrant of arrest. (Ord. 841 §13, 2001).

7.04.140 Rabies – Quarantine

The poundmaster shall have authority to order the owner of any dog showing symptoms of rabies or of any dog which has bitten any person, to subject the dog to the city pound for quarantine for a period of not to exceed fifteen days. If the dog is determined to be free of rabies it shall be returned to the owner after payment of one-half of the regular fee for keeping dogs impounded. No other fee shall be charged. However if the animal is not redeemed and fees are not paid, the owner will he subject to a fine set forth in Appendix 3. In lieu of submitting a dog to the pound for quarantine, the owner may, at his expense, admit the dog to a veterinarian for examination. (Ord. 841 §14, 2001).

7.04.150 Rabies – Destruction

Any dog afflicted with rabies shall be disposed of immediately, either by the owner or poundmaster. (Ord. 841 §15, 2001).

7.04.160 Destruction of dogs

Dogs that have been impounded and not redeemed will be dispositioned by the poundmaster in a humane manner. The owner of unclaimed animals will be subject to a fine set forth in Appendix 3. (Ord. 841 §16, 2001).

7.04.170 Unlawful to interfere with seizure or destruction of dogs

It is unlawful for any person to hinder, molest, or interfere with any person who is lawfully engaged in seizing, impounding, or destroying any dog, or removing the carcass as provided in this Ordinance. (Ord. 841 §17, 2001).

7.04.180 Violation – Penalty

Any person or persons violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in Chapter 1.05.020 of this code. (Ord. 15 §12, 1899).

CHAPTER 7.05 DEAD ANIMALS*

*Note to Chapter 7.05: For statutory provisions making it a misdemeanor to expose or leave out any animal carcass, see Idaho Code §§18-5803 and 18-5807.

7.05.010 Removal or burial requirements

It shall be the duty, and it is required of every person who may be the owner of any animal of whatsoever kind which may be found dead within the corporate limits of the city to remove such dead animal outside the limits of the city, or to bury same in ground of a sufficient depth so that the other side will be three feet below the surface thereof. (Ord. 11 §1, 1899).

7.05.020 City marshal – Authority to bury dead animals

It shall be the duty of the city marshal, and it is required of him, to bury all dead animals found within the corporate limits of the city, under the directions of the city council; provided, however, that the owner of such dead animal cannot be found after diligent search, and provided further that the owners, after three hours' notice, refuses to bury such dead animal or remove it from the city as required in Section 7.05.010 of this chapter. (Ord. 11 §2, 1899).

7.05.030 Violation – Penalty

Any person willfully disowning a dead animal found within the city limits, after being notified as provided for in Section 7.05.020, for the purpose of avoiding the requirements of the owners of such animals under the provisions of this chapter, or willfully failing to comply with the requirements of this chapter, shall, on conviction thereof, be deemed guilty of a misdemeanor and be fined not less than five dollars punishable as set forth in Chapter 1.02.020 of this code. (Ord. 11 §4, 1899).

TITLE 8 HEALTH AND SAFETY

Title 8 sets forth the requirements and regulations associated with garbage, fireworks, nuisances and other topics related to the health and safety of the citizens of the City.

For statutory provisions authorizing a city to make all regulations and pass all necessary ordinances to preserve the public health, see Idaho Code §50-304. For provisions authorizing cities to cause the removal of snow, ice, rubbish and weeds, see Idaho Code §50-317.

CHAPTER 8.01 LITTERING*

*Note to Chapter 8.01: For statutory provisions authorizing a city to declare what shall be a nuisance and to abate it, see Idaho Code §50--334.

8.01.010 Deposits in public ways restrictions – Permit required for certain uses

It is unlawful for any person or association of persons or any company or corporation to pile, place or deposit in or upon any street or public alley of the city any offal, wastepaper, rubbish, trash, glass, bottles, cans, bones, ashes or cinders, or any other refuse, debris or waste matter or material of any kind; or to pile, place or deposit in or upon any street or public alley of the city any earth, sand or gravel, or any stone, brick, blocks, lumber or other materials except for immediate use in the leveling, grading or otherwise improving such streets or alleys, or in the construction of a building or buildings, on land immediately contiguous to the street or alley where same is placed, and in such cases only after a permit so to do shall have been obtained from the chief of police of the city. (Ord. 405 §1, 1956).

8.01.020 Deposits in public ways – Declared public nuisance – Penalty for failure to remove

Any offal, wastepaper, rubbish, trash, glass, bottles, cans, bones, ashes or cinders, or any refuse, debris or waste matter or material of any kind piled, placed or deposited in or upon any street or public alley of the city shall be deemed and declared to be a public nuisance. Any person or association of persons, or any company or corporation who throws, piles, places or deposits, or causes or directs to be piled, thrown, placed or deposited in or upon any street or public alley of the city any of the matters, substances, things or materials mentioned in this chapter, and allows the same to remain in or upon such street or alley in violation of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable as set forth in Chapter 1.02 of this code. (Ord. 405 §2, 1956).

CHAPTER 8.02 GARBAGE AND REFUSE COLLECTION AND DISPOSAL

8.02.010 Findings – Purpose of provisions

The accumulation of waste, refuse, trash, garbage, rubbish or other deleterious substances on the premises of private residences or commercial and industrial establishments, vacant lots, and in streets and all alleys, constitutes a public nuisance and menace and greatly increases the danger

of the spread of infectious, contagious and epidemic diseases. It is necessary for the preservation of health, safety, sanitation, peace and public welfare that proper and adequate regulations be adopted to require property owners, tenants, occupants, or lessees to secure containers and receptacles of sufficient kind and size in which to deposit waste, refuse, trash, garbage and rubbish for collection and removal at regular intervals. (Ord. 559 §2, 1975).

8.02.020 Applicability – Scope

This chapter shall apply to residential, commercial and industrial properties and areas of the city, including apartments, trailer courts and other dwelling units. (Ord. 559 §3, 1975)

8.02.030 Definitions and interpretation of terms

For the purpose of this chapter, the following terms, phrases, words, and their derivations, shall have the following meanings. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the single number, and words used in the singular number include the plural number:

1) Approved container: means only those containers which have been approved by the inspector as to type and make. Only those containers meeting the specifications set forth in this chapter shall be approved by the inspector. They shall be constructed of galvanized metal or other material which is strong, not easily corrodible, and rodent proof, fly proof and dog proof, with two handles, a capacity of not more than thirty-two gallons, and having a tight-fitting lid or cover. Containers shall be kept in a sanitary condition with the inside and outside washed so as to be free and clean of accumulated dirt, grease and decomposed material, so that no nuisance shall exist; provided, that refuse containers meeting all other requirements and having a capacity of ten gallons or less may have a bail-type handle. The term "approved container" includes bushel baskets in good condition when used solely for the purpose of disposal of grass clippings, leaves or weeds. The term "approved container" also includes cubic-yard containers as designated by the inspector. The term "approved container" also includes commercial garbage bags.

2) Ashes and clinkers: means the residue from fire used for cooking, heating or burning of trash, after combustion has entirely ceased and the residue has entirely cooled.

3) Collector: means and includes the person holding a license or contract with the city, or employed and thereby authorized and designated by the city to collect, handle, transport and dispose of refuse.

4) Garbage: includes wastes resulting from the handling, preparation, cooking and consumption of food, and wastes from the handling and storage of produce.

5) Inspector: means the authorized employee or employees of the city or some individual designated by the council to enforce this chapter.

6) Owner and occupant: may be used interchangeably and shall include every person in possession, charge or control of any commercial and industrial property or area where refuse is created or accumulated.

7) Person: includes any person, firm, partnership, association, institute, company, corporation or organization of any kind.

8) Refuse: includes garbage and trash as defined in this section.

9) Shall: is construed as being mandatory.

10) Trash: includes wastes other than garbage, such as tin cans, bottles, dust, ashes, clinkers, paper, pasteboard, cardboard or wooden boxes, lumber scraps and shavings, leaves, weeds, cuttings from trees, lawns, shrubs and gardens, or other similar waste materials produced in the normal course of everyday living. "Trash" shall not include recognized construction wastes, industrial wastes or byproducts, carcasses of dead animals, appliances, furniture, automobile parts and bodies or other similar items. (Ord. 559 §4, 1975).

Nuisance. For the purposes of this chapter, "nuisance" means any condition or use of premises or of building exterior which is detrimental to the property of others or which causes or tends to cause substantial dimunition in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following:

1) Lumber, junk, trash or debris;

2) Abandoned, inoperable, discarded or unused objects or equipment such as automobiles, implements and/or equipment or machinery and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, furniture, stoves, refrigerators, freezers, cans, or containers;

3) Any compost pile or liquid waste which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance.

4) Keeping Unsanitary Matter on Premises. It is unlawful for any person to keep, or permit another to keep, upon any premises deleterious or septic material, unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals. (Ord. 706 §1, 1990).

8.02.040 Collection system – Use required – Exceptions

Every person who is an owner or occupant of the premises within the city limits shall use the refuse collection and disposal system provided for in this chapter and shall deposit or cause to be disposed of in accordance with this chapter all refuse which is accumulated on such premises; provided, that nothing in this chapter is to be construed to prohibit any owner from transporting and disposing of refuse accumulated on such premises, subject to all regulations contained in this chapter. (Ord. 559 §5, 1975).

8.02.050 Refuse – Accumulation restrictions

It is unlawful for any person to permit to accumulate in or about any yard, lot, place or premises, or upon any street, alley or sidewalk adjacent to such lot, yard, place or premises owned or occupied by such person, any refuse so as to cause or create any offensive odor or atmosphere, be offensive or noticeable, unsightly, or create an insect or rodent harborage, or thereby, in any manner, to be or to become or cause or create a public nuisance or a menace to public health within the limits of the city. (Ord. 559 §6, 1975).

8.02.060 Refuse – Owner responsibility to remove – Deposit restrictions

No person shall deposit refuse on or below the surface of the ground other than in a manner prescribed in this chapter. No person shall deposit or bury any refuse in or upon a public alley, street, other public area, or upon the premises of another person, whether or not the refuse is in an approved container. No refuse of any kind shall be thrown, swept or pushed into the street in front of any premises. The owner of the premises shall be responsible for the disposal of all such refuse. (Ord. 559 §7, 1975).

8.02.070 Disposal vehicles – Equipment and operation

The actual producers of refuse, or the owners of premises upon which refuse is accumulated, who desire personally to collect and dispose of refuse, persons who desire to collect and disposal of waste material not included in the definition of refuse or material not acceptable for collection, and collectors of waste and refuse from outside of the city who desire to haul over the streets of the city, shall use a vehicle so equipped and operated as to prevent refuse from being blown, dropped or spilled therefrom and offensive odors escaping therefrom. (Ord. 559 §8, 1975).

8.02.080 Approved containers – Required for collection by city

Every person using or occupying any building, house or structure within the corporate limits for residential, industrial or commercial purposes, shall provide and maintain approved containers of sufficient number and size to hold all refuse accumulating on the premises. The collector will empty and return only approved containers. (Ord. 559 §9, 1975).

8.02.090 Refuse – Requirements for placement in approved containers

All refuse must be placed in approved containers, as defined in subsection 1 of Section 8.02.030. In residential, commercial and industrial areas, all refuse that is mixed with water or other liquid shall be drained and shall be well wrapped in paper before being placed in the container. No free liquids shall be placed in the container. Thirty-two-gallon containers, when filled, shall not weigh more than seventy--five pounds. Lids of containers shall not be removed except when necessary to place or remove refuse, and the lid or cover of every refuse container shall at all times be kept securely in place and no refuse container shall be so overloaded that the lid or cover cannot be properly kept in place. (Ord. 559 §10(part), 1975).

8.02.100 Leaves, clippings, brush and similar materials – Collection procedures

Grass, leaves, weeds and clippings from trees and shrubs may be placed in cardboard cartons, bushel baskets or wooden boxes, provided the contents are prevented from being blown, spilled or removed by persons, wind or animals. Each carton, basket or box, including contents, shall not

exceed fifty pounds in weight, and shall not exceed ten cubic feet in volume. When used, such containers will not be returned to the premises, but will be removed with the contents by the collectors; provided, however, that bushel baskets in good condition and repair will be returned to the premises. Brush may be tied with heavy cord or twine in bundles not to exceed two feet, six inches in length or fifty pounds in weight. (Ord. 559 §10(part), 1975).

8.02.110 Compost pile permissions

Compost piles may be maintained for fertilization purposes, and matter used for fertilization purposes only may be transported, kept and used; provided that the same shall not cause obnoxious odors to the neighborhood. (Ord. 559 §11, 1975).

8.02.120 Trash burning and other outdoor fires

Approved incinerators in the commercial or industrial areas may be used to burn trash. Nothing in this chapter shall be construed to prohibit the use of outdoor fireplaces, barbecue pits or grills, in preparing food or for recreational purposes. (Ord. 559 §12, 1975).

8.02.130 Refuse – Collection schedule – Placement of containers

Refuse shall be collected from all premises within the city at least once each week. Premises wherein large accumulations of refuse occur may be classified separately with more frequent collection from the premises. The council shall establish a schedule of collection and persons who own or occupy premises within the city shall place all containers on the premises adjacent to the alley line of the premises upon the day scheduled for the pickup. Where there is no alley entrance to premises, refuse containers shall be placed at the street curb or at the inside edge of the sidewalk, where the sidewalk is adjacent to the curb, on the morning of the day scheduled for collection, and the empty containers shall be withdrawn from the front of the premises as soon after collection as possible on the same day. No refuse containers, refuse burners or piles of refuse shall be placed in or upon the alley right-of-way. (Ord. 559 §13, 1975).

8.02.140 Certain materials not collected – Responsibility for disposal

1) Dirt or earth debris from construction or building renovation, rocks, stones, automobile bodies and parts, washing machines, refrigerators, hot water tanks, stoves, tree trunks and stumps, and other similar materials, dead animals, furniture, building materials such as mortar, plaster, scrap lumber, broken concrete, and brick shall be collected and disposed of by the building contractor, person, owner or occupant of the premises;

2) Waste oils and lubricants from garages, service stations, machine shops, and other similar establishments shall be disposed of by the person responsible for same. (Ord. 559 §14, 1975).

8.02.150 Meddling with refuse containers prohibited

The meddling with refuse containers, any pilfering, scattering contents, and junking in any alley or street within the city limits is prohibited. (Ord. 559 §15, 1975).

8.02.160 Salvaging material from sanitary landfill prohibited – Exception

Any material disposed of at the sanitary landfill is the property of the city, and no person is allowed to separate and collect, carry off or dispose of the same except under the authority and direction of the mayor and council. (Ord. 559 §16, 1975).

8.02.170 Franchise for collection and disposal – Application – Investigation – City council authority

Any person, firm or corporation desiring a franchise for the collection and disposal of refuse shall make application to the city council, which shall make and cause to be made such investigation as it may consider necessary in order to determine whether or not the public convenience and necessity requires the granting of such franchise. Any franchise so granted shall be subject to the terms and conditions set forth by the city council and this chapter. (Ord. 559 §17, 1975).

8.02.180 Licensing and contracting for collection and disposal – Mayor and council authority

1) The mayor and council have the sole authority:

    a) To license, contract or perform all services pertaining to collection and disposal of refuse under this chapter;

    b) To establish reasonable fees for refuse collection and disposal services;

    c) To enter into contracts with one or more contractors;

    d) To establish reasonable rules and regulations governing the conduct and operation of such licensees or contractors.

2) The council may require of any such collector or contractor a bond in a reasonable amount, the condition of which shall be the satisfactory performance of the contract. (Ord. 559 §18, 1975).

8.02.190 Inspection authority

All appropriate officers of the city shall have the right of ingress or egress to any premises for the purpose of inspecting all places and containers where refuse is accumulated or kept. (Ord. 559 §19, 1975).

8.02.200 Refuse – Disposal in Madison County sanitary landfill required

The disposal of all refuse collected pursuant to the provisions of this chapter shall be in the Madison County sanitary landfill and under the supervision of the inspector. (Ord. 559 §20, 1975).

8.02.210 Fees – Billing and payment procedures

Fees shall be carried on the water bills, wherever applicable, and the clerk is authorized and directed to discontinue water service to any premises where the entire utility bill is not paid, in the same manner that service is discontinued for nonpayment of water service. It shall be deemed that refuse accumulates upon all premises receiving a supply of city water. All fees shall be paid by the person responsible for the same at the office of the clerk within ten days after receipt of a statement, and if not paid, the same shall become delinquent. All cases of delinquency shall be handled in the manner prescribed for delinquent accounts of city water service. (Ord. 559 §21, 1975).

8.02.220 Fees

1) From and after September 19, 1990, the city council shall review annually and set by resolution, charges for garbage removal for each occupied residence and/or occupied residential premises within the city, upon which refuse accumulates.

2) From and after September 19, 1990, the city council shall review annually and set by resolution, charges for garbage removal service for nonresidential premises within the city, upon which refuse accumulates. (Ord. 711 §§2, 3, 1990: Ord. 650 §§l, 2, 1982: Ord. 640 §1, 1981; Ord. 635 §1, 1981; Ord. 625 §1, 1980; Ord. 599 §1, 1979: Ord. 559 §22, 1975).

8.02.230 Additional rules and regulations authorized

The mayor and city council are authorized to prescribe such other rules and regulations as may be necessary to carry out the purposes of this chapter and provide for public welfare. (Ord. 559 §25, 1975)

8.02.240 Failure to comply with chapter provisions deemed misdemeanor – Penalty

Any person, firm or corporation who fails, neglects or refuses to comply with the provisions of this chapter shall be deemed to be in violation thereof and guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed three hundred dollars for any such offense and such person may be confined in jail for a period of not more than thirty days. Either or both such fine and imprisonment may be imposed and in addition thereto, any person so convicted shall pay such costs as the court may assess. Each day's failure to comply with any such provision shall constitute a separate violation. (Ord. 599 §2, 1979: Ord. 559 §24, 1975).

8.02.250 Violation of chapter provisions – Citation and appearance requirements

Whenever it is determined by any police officer that any person or persons have violated any provision of this chapter, the police officer shall prepare in quadruplicate a written citation containing a notice to appear in magistrate's court, the name and address of the persons charged, the offense charged, the time and place when and where the offense charged occurred, and the time when the person shall appear in magistrate's court, and such other pertinent information as may be necessary; provided, further, that such person or persons shall appear in magistrate's court within five days after such citation is issued. (Ord. 559 §23, 1975).

8.02.260 Unauthorized depositing of refuse – Penalty

1) No person shall deposit any litter, refuse or garbage or cause or permit to be deposited in or around the garbage containers of another without the containers owner's consent. The identification of mail or other material bearing the name(s) of a person or identifying such person or entity shall constitute prima facie evidence of ownership.

2) Any person convicted of a violation of subsection A of this section shall be punished by a civil penalty of not less than three hundred dollars nor more than one thousand dollars plus court costs. Any civil penalty assessed and collected by the court shall be distributed as follows: one-third to the person apprehending or reporting the offender other than city employees in course of their employment; one-third to the owner of the receptacle; and one-third to the city. (Ord. 765 §§1, 2, 1994).

8.02.270 Non recyclable garbage and refuse

All garbage and refuse shall be placed in city refuse containers, except the following items, which are not allowed in any city container: asphalt, automotive batteries, building materials, carpet, cement block, concrete, dead animals, lumber scraps, mattresses, metal, motor oil, pallets, tires, tree limbs over one inch diameter, tree stumps and white goods (stoves, fridges, washers, dryers, dishwashers, etc.). (Ord. 765 §3, 1994).

8.02.280 Blocking access to containers prohibited

No vehicles or other obstruction, including snow, shall block access to a container that is to be dumped. If access is blocked, the container will not be dumped and an additional minimum fee will be assessed according to Appendix 4 for a return call to empty a container. (Ord. 765 §4, 1994).

8.02.290 Disposing of solid waste on public or private property prohibited

It is unlawful for any person to dump or in any manner dispose of solid waste upon any street, alley, public place or private property owned by another person within the city. (Ord. 765 §5, 1994).

8.02.300 Collection and storage

All solid waste shall be removed at least biweekly from all occupied premises in city residential areas and from all other premises as requested by the owner. Temporary storage of solid waste prior to removal shall comply with this section. (Ord. 765 §6, 1994)

8.02.310 Placing burning material in container prohibited

It is unlawful for any person to deposit in any solid waste container any burning materials, or materials sufficiently hot to create combustion when the same come in contact with other solid waste. (Ord. 765 §7, 1994).

8.02.320 Charges for collection service

The rates for city refuse collection shall be set by resolution of the city council and shall be reviewed at least annually. (Ord. 765 §8, 1994)

8.02.330 Severability

The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application. (Ord. 765 §9, 1994).

8.02.340 Violation – Penalty

Any person, firm or corporation violating Section 8.02.270, 8.02.080, 8.02.0290 or 8.02.310 shall be guilty of a misdemeanor and assessed a civil penalty of not less then fifty dollars nor more than one thousand dollars for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 765 §10, 1994)

CHAPTER 8.03 NOXIOUS WEEDS*

*Note to Chapter 8.03: For statutory provisions concerning the control and removal of noxious weeds, see Idaho Code Ch. 22-24.

8.03.010 Noxious weeds declared public nuisance – Removal requirements

All offensive and noxious weeds or plants within the city limits are declared to be a public nuisance, and shall be cut, removed and destroyed by the owner or agent of the grounds or premises on which the same are located, when notified to do so by the chief of police or chief of emergency services, such notice to be served in the manner provided in Section 8.03.020. (Ord. 379 §1, 1951).

8.03.020 Removal notice – Contents – Service and posting

It shall be the duty of the chief of police or chief of emergency services to notify the owner, agent or person having charge of any property within the city limits where offensive or noxious weeds or plants are growing to cut, remove and destroy the same. The notice shall describe the location of the property as nearly accurate as can be, and shall specify the time in which the weeds must be cut, removed and destroyed. The notice shall be served upon the owner, agent or person in charge of such property, if such owner, agent or person in charge can be found; then by posting a notice upon a conspicuous place on the premises and registering a copy of the notice to the owner or agent of the same. (Ord. 379 §2, 1951).

8.03.030 City to perform work – Costs deemed lien

If the owner, agent or person in charge fails to comply with the notice, or fails to cut, remove or destroy the noxious weeds growing upon any property in the city, the chief of police or chief of emergency services may order the work done at the expense of the city, and the same shall be charged against and be a lien on the property until paid, said lien to be filed the same as is provided for filing liens for sidewalks or other special improvements against property. (Ord. 379 §3, 1951).

8.03.040 Failure to comply with removal notice – Penalty

Any person or persons owning or controlling any such property upon whom notice has been served to remove the noxious weeds, who fails to comply with the notice within the time specified in the notice, shall be guilty of an offense, and, upon conviction, shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 379 §4, 1951).

CHAPTER 8.04 FIREWORKS*

*Note to Chapter 8.04: For statutory provisions authorizing a city to adopt certain codes by reference, see Idaho Code §50-901. For provisions regarding firecrackers or fireworks, see Idaho Code Ch. 39-26. For statutory provisions authorizing a city to control the discharge of fireworks, see Idaho Code §50-310.

8.04.010 Purpose and intent of provisions

It is declared to be the intent of the city council to aid and assist by whatever means possible the utmost consistency between the city and the state in governing and regulating the sale and use of fireworks. Toward that end, adoption of the Idaho State Fireworks Law is a necessary means of assuring maximum uniformity within the state. (Ord. 536 §1, 1973).

8.04.020 State Fireworks Law – Adopted by reference

There is adopted for the purpose of establishing rules and regulations for the sale and use of fireworks within the city that certain code identified as the Idaho State Fireworks Law, more particularly Title 39, Chapter 26, Idaho Code, and as the same may hereafter be revised by the Idaho Legislature or amended by the city council of the city, and the same is adopted and incorporated as an ordinance of the city as fully as though set forth at length in this chapter. (Ord. 536 §2, 1973).

8.04.030 State Fireworks Law – Copies filed for public examination

Three copies of the Idaho State Fireworks Law, together with any revisions or amendments, duly certified by the city clerk-treasurer, shall be kept on file in the clerk-treasurer's office for use and examination of and by the public. (Ord. 536 §3, 1973)

8.04.040 Discharge prohibitions – Exceptions

1) It is unlawful for any person to discharge any firecracker, firework not designated as a "safe and sane" firework, torpedo, firearm, air gun, pneumatic gun, spring gun, B-B gun, rocket, grenade, molotov cocktail, artillery projectile, pistol, catapult, flipper, ice bomb, pipe bomb, black powder bomb, or any other item(s), bomb(s) or explosive(s) capable of damaging property or injuring persons or animals within the corporate limits of the city.

2) No person shall discharge any non-safe and sane firework anywhere in the city, except at a public exhibition pursuant to special written permit issued by the city chief of emergency services. (Ord. 714 §§l, 3, 1990: Ord. 66(part), 1903).

8.04.050 Restrictions on possession

It is unlawful for any person to possess, make, manufacture, or have physical control over any firework not designated as a "safe and sane" firework, torpedo, grenade, molotov cocktail, artillery projectile, ice bomb, pipe bomb, black powder bomb, or any other type of bomb, explosive, components thereof, or similar item(s) capable of damaging property or injuring humans or animals within the corporate limits of the city. (Ord. 714 §2, 1991: Ord. 66(part), 1903).

8.04.060 Violation – Penalty

Any person violating any provision of Sections 8.04.040 and 8.04.050 shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding three hundred dollars, or by both. (Ord. 714 §4, 1991: Ord. 66(part), 1903).

CHAPTER 8.05 RADIO INTERFERENCE

8.05.010 Apparatus or devises causing radio interference Nuisance and misdemeanor

That all radio interference which can be reasonably prevented is hereby declared a nuisance. That all electrical apparatus or devises, or any other apparatus or devises, which causes radio interference and which can be equipped with devises which eliminate radio interference, be immediately equipped with said devises so as not to interfere with radio reception. (Ord. 332(part), 1937).

8.05.020 Violation – Penalty

That any person violation this ordinance is guilty of misdemeanor and shall be fined not less than Five Dollars ($5.00) and not more than One Hundred Dollars ($100.00). (Ord. 332(part), 1937).

CHAPTER 8.06 PROPERTY NUISANCES

8.06.010 Nuisance defined

For the purposes of this chapter, "nuisance" means any condition or use of premises or of building exterior which is detrimental to the property of others or which causes or tends to cause substantial dimunition in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following:

1) Lumber, junk, trash or debris;

2) Abandoned, inoperable, discarded or unused objects or equipment such as automobiles, implements and/or equipment or machinery and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, furniture, stoves, refrigerators, freezers, cans, or containers;

3) Any compost pile or liquid waste which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects, provided that the presence of earthworms in a compost pile shall not constitute a nuisance.

4) Keeping Unsanitary Matter on Premises. It is unlawful for any person to keep, or permit another to keep, upon any premises deleterious or septic material, unless such material is retained in containers or vessels which deny access to humans, flies, insects, rodents and animals. (Ord. 706 §1, 1990).

8.06.020 Responsibility for maintenance

No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located. (Ord. 706 §2, 1990)

8.06.030 Exterior storage of non-operating vehicles– Prohibited

No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded or otherwise non-operating motor vehicle, machinery, implement, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, to remain on such property longer than four- teen days; and no person shall leave any such vehicle on any property within the city for a longer time than fourteen days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property. This chapter shall further not apply with regard to any vehicle on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle is necessary to the operation of such business enterprise; or with regard to a vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city or any other public agency or entity. (Ord. 706 §3, 1990).

8.06.040 Abatement by property owners

The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this city upon which such storage is made, and also the owner, owners, and/or lessees of personalty involved in such storage (all of whom are hereinafter referred to collectively as "owners"), shall jointly and severally abate the nuisance by the prompt removal of the personalty into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the city, or otherwise to remove it to a location outside said corporate limits. (Ord. 706 §4, 1990)

8.06.050 Abatement by city

Whenever the owners fail to abate the nuisance, then the city shall remove the personalty to a location of its selection, the expenses there- for to be billed to said owners, jointly and severally, the bill to be recoverable in a suit at law.

When the personalty has been removed and placed in storage by the city, as provided for herein, the personalty shall be sold by the city after the lapse of such time as is provided by law. If the proceeds of such sale are insufficient to pay the costs of abatement, the owners shall be liable to the city for the balance of the costs, jointly and severally, to be recoverable in a suit at law. If the proceeds are in excess of costs, the balance shall be paid to the owners, or deposited in the city treasury for their use. (Ord. 706 §6, 1990)

8.06.060 Violation – Penalty

If the owners allow the nuisance to exist or fail to abate the nuisance, they, and each of them, upon conviction thereof shall be fined not less than twenty-five dollars nor more than five hundred dollars for each offense and a separate offense shall be deemed committed on each day during or on which such nuisance is permitted to exist. (Ord. 706 §5, 1990)

8.06.070 Violation of safety regulations for building, facility or park

1) Any person violating provisions of any rules or regulations adopted by the ownership or management for the safe and orderly utilization of any building, facility, park or grounds of any kind or description, located within the limits of the city, to which the public has access, whether owned or operated by any public or private entity, corporation, partnership or individual, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding three hundred dollars or imprisoned in the county jail not more than thirty days or both, at the discretion of the court.

2) It shall be the duty of the owner, manager or authorized agent of any building, facility, park or grounds, to which the public has access, who desire to bring themselves under the provisions of this section, to adopt reasonable regulations for the safe and orderly use of such places, and to keep copies of said rules and regulations, printed in plain English, posted in conspicuous locations upon or within the building, facility, park or grounds so governed.

3) Unless a person has had a reasonable opportunity to observe or has been verbally advised by an owner, manager or authorized agent of said rules and regulations and given a reasonable opportunity to comply, no conviction shall be had under the provisions of this section. (Ord. 759 §1-3, 1994).

CHAPTER 8.07 SUBSTANCE ABUSE

ARTICLE I METHAMPHETAMINES

8.07.010 Definitions

1) “Methamphetamine precursor drug(s)” shall mean and refer to any substance that is:

    a) a drug or product containing as its sole active ingredient pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers; or

b) a combination drug or product containing as one (1) of its active ingredients pseudoephedrine, phenylpropanolamine, or any of their salts, optical isomers, or salts of optical isomers.

2) "Over-the-counter sales" shall mean and refer to a retail sale of a drug or product but does not include the sale of a drug or product pursuant to the terms of a valid prescription.

3) “Retailer” shall mean and refer to any person, corporation, partnership or other business entity conducting business within the Rexburg City Limits who sells or furnishes any over-the-counter drug product containing methamphetamine precursor drugs to any person who is the ultimate user or consumer of the product. (Ord. 949 §1, 2005).

8.07.020 Prohibited acts

It shall be unlawful within the incorporated limits of the city for any retailer or employee thereof to knowingly sell, transfer, or to otherwise furnish in any single transaction:

1) More than three packages of any product that he or she knows to contain more than a total weight of nine (9) grams of methamphetamine precursor drugs.

2) A methamphetamine precursor drug to a person under the age of 18 years.

3) The limits established in this section shall not apply to any quantity of methamphetamine precursor drugs dispensed pursuant to a valid prescription. (Ord. 949 §1, 2005).

8.07.030 Accessibility of methamphetamine precursor drugs

A business establishment that offers for sale methamphetamine precursor drugs shall ensure that all packages of the drugs are displayed and offered for sale only:

1) behind a checkout counter where the public is not permitted; or

2) inside a locked display case; and

3) all sales shall be conducted with an employee of the retailer and cannot be conducted by a self-service system. (Ord. 949 §1, 2005).

8.07.040 Penalty

It shall be unlawful and punishable as a misdemeanor to violate any of the provisions of this chapter. (Ord. 949 §1(part), 2005).

ARTICLE II INTOXICATING SUBSTANCES

8.07.050 Sale, ingestion or inhalation of intoxicating chemicals prohibited

It shall be unlawful for any person for the purpose of causing a condition of intoxication, inebriation, excitement, stupefaction or dulling of brain or nervous system to intentionally sell, ingest or inhale the fumes of any chemical substance containing a solvent or chemical compound having the property of releasing toxic vapors of fumes. (Ord. 532 §1, 1972).

8.07.060 Responsibility of other persons

It shall be unlawful for any person by any act or neglect to encourage, aid or cause any person under the age of eighteen (18) years to come within the preview of this article. (Ord. 532 §2, 1972).

8.07.070 Penalty

Violation of this ordinance shall be punishable by imprisonment in the Madison County Jail for a period not to exceed six (6) months or by a fine not to exceed $300.00, or by both such imprisonment and fine. (Ord. 532 §3, 1972).

CHAPTER 8.08 TREES AND PLANTS

8.08.010 Definitions

The following words and phrases when used in this ordinance shall have the meaning set out in this Section:

1) Adjacent Property Owner: Any person owning property adjacent to public rights-of-way.

2) Alternate Host Plant: One of two kinds of plants on which a pest must develop to complete its life cycle.

3) ANSI A300: The American National Standard for Tree Care Operations - Tree, Shrub and Other Woody Plant Maintenance - Standard Practices. This is a document offering basic performance standards for tree pruning; published in 1995 by the American National Standards Institute (ANSI) or the same as amended from time to time.

4) Arboriculture: The cultivation of trees, including planting, pruning, removal or any other action which affects the growth and maintenance of trees.

5) City: The City of Rexburg, Idaho.

6) City Tree Commission: The City Tree Commission or the City Tree Commission's designee.

7) Critical Root Zone: The area under a tree extending from the base of a tree in all directions to an imaginary line 10 feet outside of the drip line or as determined at a preliminary site inspection by the City Tree Commission.

8) Forester: The person responsible for administering the City's tree program.

9) Hazard: Any tree, public or private, with visibly defined structural defects likely to cause failure of all or part of the tree, and be a danger to public safety.

10) Permit: Written approval issued by the City and required for any activity on public trees or within the critical root zone of public trees.

11) Person: Any individual, firm, partnership, corporation, association, company or organization of any kind.

12) Pest: Any insect, disease or other organism harmful to trees.

13) Pruning: The practice of cutting tree limbs according to standards contained in ANSI A300.

14) Public Property: Any property owned by, dedicated to, or deeded to, the public or for the public's use. City parks, public rights-of-way and other publicly owned, controlled, leased or managed properties are included in this definition. This definition excludes any federal or state owned properties except where otherwise provided by contract or law.

15) Public Rights-of-way: Improved or unimproved public property owned by, dedicated to, or deeded to the public or for the public's use, for the purpose of providing vehicular, pedestrian and other public use. Such public property provides circulation and travel to abutting properties and includes, but is not limited to, streets, sidewalks, landscaping, provisions for public utilities, cut and fill slopes, and open public space. For the purposes of this Chapter, alleys are excluded from this definition.

16) Public Safety: The condition of being safe from bodily harm and/or property damage resulting from tree conditions and/or failures while using public property.

17) Public Nuisance: Any tree or part thereof (public or private) which, by reason of location or condition, constitutes a hazard to public safety.

18) Public Trees: Any tree (inclusive of roots within the critical root zone) whose trunk is located, partly or in whole, on public property.

19) Topping: "Rounding" or "heading back" or any other term that can be described as severe cutting back of limbs within a tree crown to buds, stubs, or laterals not large enough to assume a terminal role or as defined in ANSI A300.

20) Tree: Any woody plant, which is 15 feet or more in height at maturity, with a single or multiple trunk, often unbranched for several feet above the ground and having a definite crown. (Ord. 919 §1, 2004).

8.08.020 Applicability

This Chapter establishes regulations and standards necessary to ensure that the City continues to realize the benefits provided by the Community Forest. It is not intended to resolve or regulate

disputes over trees on private property that do not affect general public safety. This ordinance is enacted to:

1) Promote the general welfare of the City by establishing and maintaining the maximum amount of canopy coverage provided by trees;

2) Preserve and enhance the City's environmental, economic and social character with mature trees;

3) Protect public safety, health & welfare;

4) Encourage site and utility planning, building, and development practices to prevent indiscriminate removal or destruction of trees and avoid unnecessary disturbance to trees within the City and its Area of Impact;

5) Maintain trees in a healthy, non-hazardous condition through application of tree care standards contained in ANSI A300;

6) Establish and maintain appropriate species diversity and age classes in order to provide a stable and sustainable community forest;

7) Establish a process by which public trees are to be planted, pruned and removed;

8) Implement the goals and objectives of the City's Comprehensive Plan. (Ord. 919 §2, 2004).

8.08.030 Jurisdiction

This Ordinance shall apply to the following properties as set forth:

1) Public Property: The City Tree Commission shall manage and regulate the planting, maintenance, protection, removal and replacement of all public trees within the City limits; thus exercising the City's authority to do so granted pursuant to the provisions of Idaho Code 50-312 - Improvements of Streets, Idaho Code 50-317 - Removal of snow, ice rubbish and weeds, Idaho Code 1415 (7) Responsibilities of single county-wide highway districts within cities – Final decision on urban renewal projects – Settlement of questions.

2) Private Property: The City Tree Commission shall have jurisdiction over trees located on private property which are found to be public nuisances and may cut and remove those trees from all private property within the city and the public rights of way abutting the same and may assess the cost thereof against the property so cleared, and against the property abutting public rights of way so cleared, as provided for in Idaho Code 50-317. The assessment shall be collected as provided in Idaho Code 50-1008.

3) Area of Impact: The City Tree Commission shall make recommendations with respect to trees that are of general public interest within the Impact area. Such general public interest shall include, but not be limited to, trees that will impact visually the public rights of way, trees that overhang public owned properties, and trees that are of such a nature as to have significant public recognition. (Ord. 919 §3, 2004).

8.08.040 Establishment or designation of Commission

The Mayor with the assistance of the City Council shall designate a City Tree Commission, which shall consist of not less than five (5) nor more than fifteen (15) individuals, but can be an existing commission provided it meets the above requirements, and authorize such persons or commission to perform the duties imposed and exercise the powers granted by this chapter. For the purposes of this Ordinance, the City Tree Commission, is hereby authorized to carry out the following duties:

1) Administrative/Management Duties

    a) Develop, administer and maintain a Community Forestry Management Plan.

    b) Administer a program of public outreach and education relating to Community Forestry and the planting and care of trees.

    c) Administer and maintain a permitting procedure for all planting, pruning, protection and removal of public trees.

    d) Establish and maintain an inventory of all public trees.

    e) Maintain a Community Forestry budget to be contained within the budget of the City. The City may expend funds to plant, maintain or remove trees in accordance with the provisions of this Chapter, the Community Forestry Management Plan and existing policies.

    f) Oversee and require compliance with pest management programs as may be adopted by the City.

    g) Facilitate the proper selection, planting and maintenance of public trees in residential, commercial and industrial developments within City limits and the Rexburg Area of City Impact, the City Tree Commission shall review and provide comment on development applications when such applications are submitted to the City Planning and Zoning Department.

    h) Establish policies to carry out the provisions of this Chapter;

    i) Perform all necessary acts to ensure that all public trees conform with the Community Forestry Management Plan and this Chapter.

    j) Annually provide public notification of the requirements of this Chapter.

2) Tree Planting Duties

    a) Establish and maintain specifications for tree planting on public property.

    b) May establish and maintain a nursery for the growing of the species of trees permitted on public property.

3) Tree Maintenance Duties

   a) Order the pruning or removal of public trees to ensure public health, safety and welfare while considering the health of the tree and other elements of the infrastructure.

   b) Declare trees as public nuisances in accordance with State statutes and regulations.

   c) Manage the abatement of public nuisances as declared in accordance with this Chapter.

4) Tree Removal Duties

   a) Remove trees located on public rights-of-way which have been declared to be a public nuisance.

   b) Any trees on public rights-of-way scheduled for removal shall be affixed with a public notice stating the reason for removal. Such notice shall be posted not less than 30 days prior to scheduled removal date unless determined by the City Tree Commission to be an emergency or immediate hazard to public safety.

5) Tree Protection Duties

   a) To avoid creating public nuisances or damaging public trees, the City Tree Commission is authorized to require their protection (including the critical root zone) from construction or other harmful practices. (Ord. 919 §4, 2004).

8.08.050 Responsibilities of adjacent property owners

Any person in possession of private property shall maintain trees upon adjacent public rights of way and any trees upon private property which may affect public property, in a safe and healthy condition in compliance with the provisions of this Chapter. Adjacent property owners have the following responsibilities:

1) Responsibilities for public trees

   a) Obtain Permits

      i) Meet all requirements and obtain all permits necessary for work done (including, but not limited to, pruning and removal) on any public trees as required.

      ii) Meet all requirements and obtain all permits necessary prior to commencing repair of damage done to public streets or sidewalks adjacent to any public trees.

      iii) Meet all requirements and obtain all permits necessary for any tree planting on public property.

   b) Routine Tree Maintenance

      i) Pruning of trees located on public rights-of-way adjacent to the owner's private real property.

(1) Prune and maintain such public trees according to ANSI A300, except sections 5.5 and 5.6, which are deleted.

(2) Topping, heading, shearing or rounding over are not acceptable forms of tree pruning and are not allowed on public trees unless first approved by the City Tree Commission.

(3) Except as otherwise determined by the City Tree Commission, branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel.

(4) Trees shall be pruned to remove dead limbs or other limbs that are considered a public nuisance.

i) Control pests on trees located on public rights-of-way adjacent to the owner's private real property;

ii) Provide water sufficient to keep trees located on public rights-of-way adjacent to the owner's private real property in a healthy, growing condition.

c) Protection/Preservation

i) Obtain a permit from the City Tree Commission before performing any activity which may harm any part of a public tree (inclusive of the critical root zone);

ii) Notify the City Tree Commission when any part of a public tree is damaged or destroyed.

2) Responsibilities for private trees

a) Routine Tree Maintenance

i) Removal or pruning of trees located on the owner's private real property that is considered a public nuisance.

ii) Pruning of trees located on the owner's private real property that is considered a public nuisance. Branches that overhang sidewalks or streets shall be pruned to provide sufficient vertical clearance over the sidewalk and street so as not to interfere with public travel.

iii) Control of pests on trees located on the owner's private real property which may, upon determination by the City Tree Commission, pose a threat to public trees.

iv) Removal of all debris (wood, branches & leaves) from public property by sunset of the day on which any tree work is done. (Ord. 919 §5, 2004).

8.08.060 Permits

1) No person may perform any of the following acts without first obtaining from the City Tree Commission a permit for which no fee shall be charged, and nothing in this section shall be construed to exempt any person from the requirements of obtaining any additional permits as required by law:

    a) Plant trees on public rights-of-way or in any public places that are not consistent with the plans established by the Tree Commission.

    b) Prune, cut, remove or otherwise disturb any public tree. This provision shall not be construed to prohibit owners of property adjacent to public rights-of-way from watering or fertilizing such trees.

    c) Attach any object to public tree(s).

3) Permit Application Procedures

    a) Contact the City Tree Commission via mail, phone, fax or email prior to commencement of the proposed work.

    b) Upon inspection, the City Tree Commission may issue a permit to perform any of the acts specified in part A of this section.

    c) The City Tree Commission may condition the approval of any permit.

4) Public Tree Planting Permits – Requirements

    a) Each application for a planting permit shall designate the species and variety of public tree proposed. The City Tree Commission shall designate the location of the planting.

    b) Approval of public tree species, spacing, placement and minimum tree well sizes shall be obtained from the City Tree Commission prior to issuance of a permit.

    c) Whenever any public tree is planted or set out in conflict with the provisions of this Chapter, it shall be lawful for the City Tree Commission to remove or cause removal of the same. The cost of removal of such tree may be charged to person responsible for the planting thereof.

5) Tree Pruning/Removal Permits – Requirements

    a) Prior to pruning or removal of any public tree, application for permit must be made by the property owner or private tree firm currently licensed by the City.

    b) Whenever a tree on public rights-of-way is removed, the applicant shall replace the tree removed as a condition of issuance of a permit for removal, unless such requirement is waived by the City Tree Commission for good cause shown. Conditions may include a requirement for compensatory payments. (Ord. 919 §6, 2004).

8.08.070 Penalties for violation

1) Any person who violates any provision of this Chapter or who fails to comply with a lawful order of the City Tree Commission shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under the provisions of this Chapter may be punished by a fine not to exceed $300 or be imprisoned in the County Jail facility for a period not to exceed 6 months or by both such fine and imprisonment.

2) In addition to any criminal penalties that may be imposed, the City may pursue civil penalties and restitution for actual damages. (Ord. 919 §7, 2004).

8.08.080 Public nuisances

The following are hereby declared public nuisances under this Chapter:

1) Any tree, shrub or plant or part thereof (public or private) which, by reason of location or condition, constitutes a hazard to public safety as determined by the City Tree Commission.

2) Any tree, shrub or plant or part thereof (on public or private property) which obstructs the free passage of pedestrian or vehicular traffic upon public rights of- way or which obstructs public street lighting.

3) Any tree, shrub, plant or alternate host plant or part thereof (on public or private property) which harbors pests which reasonably may be expected to injure or harm public trees. (Ord. 919 §8, 2004).

8.08.090 Abatement of public nuisances

The following are the prescribed means of abating public nuisances under this Chapter:

1) Any tree, shrub, plant or alternate host plant or part thereof (public or private) declared to be a public nuisance shall be pruned, removed or otherwise treated in accordance with the requirements of this Chapter. Except for removal of trees from public rights-of-way, all costs for nuisance abatement are the responsibility of the adjacent property owner.

2) The City Tree Commission may cause a written notice to be personally served or sent by mail to the owner of a particular property declaring the existence of a nuisance, and the means by which abatement may be accomplished.

3) In the event the nuisance is not abated by the date specified in the notice, the City Tree Commission is authorized to cause the abatement of said nuisance. The reasonable cost of such abatement may be charged to the subject property owner. Monies which have not been recovered through the City bill collection procedures may result in a lien against the property or assessed on taxes as provided for in Idaho Code Title 50. In addition, the owner of the property upon which the nuisance is located may be subject to prosecution under this Chapter, or any other Chapter of the City Code or the Idaho Code for maintaining a public nuisance. Nothing in this provision shall be construed to exempt any person from the requirement of obtaining permits.

4) The City Tree Commission is empowered to cause the immediate abatement of any nuisance if it is determined by the City Tree Commission to be an emergency or pose an immediate hazard to public safety.

5) If the City Tree Commission determines that disposal of the wood, branches and soil from removal or pruning of a nuisance tree is required to complete abatement, such disposal shall be done as required by the City Tree Commission. All costs associated with the disposal of material from private trees shall be the responsibility of the property owner. (Ord. 919 §9, 2004).

8.08.100 Appeals

1) Any person affected by an order, grant, denial, or revocation of a license or permit by the City Tree Commission may appeal such order, grant, denial or revocation to the Rexburg City Council.

2) Such appeal shall be filed in writing and submitted to the City Clerk within 10 days of the date of notification of the decision of the City Tree Commission.

3) The appeal shall be heard by the City Council within 30 days of the appeal being filed, and any action by the City Tree Commission and the appellant shall be delayed until the decision of the City Council is rendered.

4) The City Council may in conformity with the provisions of this Chapter reverse or affirm or modify wholly or partly, the order, grant, denial or revocation of any permit and the decision of the City Tree Commission.

5) The decision of the City Council shall be deemed final. (Ord. 919 §10, 2004).

8.08.110 Severability

The provisions of this Chapter shall be deemed severable and a finding by a court of law that a provision of this Chapter is unlawful shall have no effect on the remaining provisions. (Ord. 919 §11, 2004).

CHAPTER 8.09 JAYWALKING

8.09.010 Purpose

The purposes of this Ordinance are:

1) To regulate and prohibit random or uncontrolled access to public roadways by pedestrians;

2) To protect public roadways from being impeded by pedestrians;

3) To reduce accidents associated with pedestrian and vehicle conflicts; and

4) To protect and promote the peace, health, safety, welfare and tranquility of the community and citizens of the City of Rexburg. (Ord. 867 §1, 2002).

8.09.020 Definitions

Certain words and phrases used in this chapter are defined as follows:

1) Pedestrian: Any person afoot, any person operating a wheelchair or a motorized wheelchair, or any person upon a bicycle engaged in the use of a designated bike or pedestrian path.

2) Pedestrian Path: Any path, sidewalk or way set-aside for the use of pedestrians.

3) Public Roadway: All portions of any highway which are controlled by any governmental authority, including highways within the jurisdictional limits of the City of Rexburg. (Ord. 867 §2, 2002).

8.09.030 Unlawful crossing of public roadways

Any pedestrian who crosses, or attempts to cross a public roadway at any point other than a designated crossing, within the City of Rexburg, shall be guilty of an Infraction. (Ord. 867 §3, 2002).

8.09.040 Designating crossings

There shall be established, crosswalks within the City of Rexburg, as determined appropriate by the City Engineer, Public Works Coordinator, Safety and Traffic Committee, or any other designated representative of the City of Rexburg. Such designated crossings shall be identified and marked in such a way as to make them clearly identifiable to the reasonable public, and where practicable in accordance with the Manual on Uniform Traffic Control Devices. (Ord. 867 §4, 2002).

8.09.050 Defenses

It shall be a defense to the offense of Unlawful Crossing of a Public Roadway, if there are no Designated Crossings within Five Hundred feet (500') of the point at which the crossing occurred. (Ord. 867 §5, 2002).

8.09.060 Enforcement

The peace officer shall not issue a citation under this chapter unless the officer reasonably believes that a violation has occurred and that, based on any response and all other circumstances, no defense is present. (Ord. 867 §6, 2002).

8.09.70 Violation – Penalties

Any person who violates a provision of this chapter shall be guilty of an infraction and upon conviction shall be punished by a fine set forth in Appendix 3. (Ord. 867 §7, 2002).

CHAPTER 8.10 CLEAN AIR – BOWLING ALLEYS

8.10.010 Purpose

The purpose of this Ordinance is to protect and promote the peace, health, safety, welfare and tranquility of the community and citizens of the City of Rexburg. (Ord. 931 §1, 2005).

8.10.020 Prohibitions

Within the City Limits of Rexburg, in additions to the facilities identified in Idaho Statute Title 39, Chapter 55 as having smoking prohibitions, no person shall smoke in a bowling alley, or in any part of the structure housing a bowling alley. (Ord. 931 §2, 2005).

8.10.030 Owner responsibilities

Any employer or other person in charge of a bowling alley or other establishment within a common structure with a bowling alley, shall be responsible for insuring to the best of their ability that no smoking of tobacco products occurs in violation of this Ordinance. (Ord. 931 §3, 2005).

8.10.040 Penalties

1) Any person who violates a provision of this chapter shall be guilty of an infraction, and shall be subject to a fine set forth in Appendix 3.

2) Upon a second conviction within a three year period, the person shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and be fined according to Appendix 3, in conjunction with any other sentence or costs deemed appropriate by the Court.

3) Upon a third or greater conviction within a three year period, the person shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and be fined according to Appendix 3, in conjunction with any other sentence or costs deemed appropriate by the Court. (Ord. 931 §4, 2005).

TITLE 9 PUBLIC PEACE, MORALS AND WELFARE

Title 9 sets forth the provisions regulating activities that jeopardize the public peace and welfare.

For statutory provisions authorizing a city to pass all ordinances necessary to maintain the peace, and to enforce same, see Idaho Code §50-302. For constitutional provisions allowing municipal corporations to make and enforce local police regulations, see Idaho Const. Art. 12 §2. For statutory provisions regarding gambling, see Idaho Code §18-3801 et seq. For statutory provisions concerning the escape or rescue of prisoners, see Idaho Code §13-2501 et seq.

CHAPTER 9.01 SNOWBALLS AND OTHER OBJECTS THROWN

9.01.010 Objects thrown – Prohibited

It is unlawful for any person within the city limits of Rexburg, Idaho, to willfully or carelessly throw any stone, stick, snowball, egg, bomb, missile, or other substance whereby any person is hit, or any window broken or any property injured or destroyed. (Ord. 639 §2, 1981).

9.01.020 Obstructing streets and sidewalks – Prohibited

It is unlawful for a person within the city limits of Rexburg, Idaho, to stand, obstruct, place or cause to be placed, any obstruction or to cause any object to be thrown or placed upon any street or sidewalk in such a manner as to render travel upon the public streets, sidewalks, parking lots or public places of Rexburg, Idaho, hazardous, dangerous, frightening or annoying to any pedestrian or traveler. (Ord. 639 §2, 1981).

9.01.030 Violation of Sections 9.01.010-9.01.020 – Penalty

The violation of Section 9.01.010 constitutes a misdemeanor. (Ord. 639 §2, 1981).

CHAPTER 9.02 WEAPONS

9.02.010 Discharging explosives prohibited

It shall be unlawful for any person to discharge any fire cracker, firework not designated as a "safe and sane" firework, torpedo, firearm, air gun, pneumatic gun, spring gun, B-B gun, rocket, grenade, molotov cocktail, artillery projectile, pistol, catapult, flipper, ice bomb, pipe bomb, black powder bomb, or any other item(s), bomb(s) or explosive(s) capable of damaging property or injuring persons or animals within the corporate limits of the City of Rexburg, Idaho. (Ord. 714 §1, 1991).

9.02.020 Discharging fireworks allowed on Fourth of July

That it shall be unlawful for any person to discharge any fire crackers, cannon crackers, torpedoes, fire arms, air guns, within corporate limits of the City of Rexburg, Idaho; provided

that fireworks may be discharged on the Fourth of July and such other occasion under such regulations and restrictions as the Mayor may prescribe by proclamation. (Ord. 66 §1, 1903).

9.02.030 Possessing or producing explosives prohibited

It shall be unlawful for any person to possess, make, manufacture, or have physical control over any firework not designated as a "safe and sane" firework, torpedo, grenade, molotov cocktail, artillery projectile, ice bomb, pipe bomb, black powder bomb, or any other type of bomb, explosive, components thereof, or similar item(s) capable of damaging property or injuring humans or animals within the corporate limits of the City of Rexburg, Idaho. (Ord. 714 §2, 1991).

9.02.040 Prohibited explosives – special permit

No person shall discharge any non-safe and sane firework anywhere in the city, except at a public exhibition pursuant to special written permit issued by the Rexburg City Fire Chief. (Ord. 714 §3, 1991).

9.02.050 Violation – Penalty

Any person violating any provision of this chapter shall be guilty of a misdemeanor, punishable by imprisonment, in the county jail not exceeding six (6) months, or by a fine not exceeding three hundred dollars ($300), or by both. (Ord. 714 §4(part), 1991).

CHAPTER 9.03 JUVENILE CURFEW

9.03.010 Purpose

The purposes of this chapter are:

1) To regulate and prohibit minors from remaining in public places during certain hours of the day;

2) To protect minors from each other and from other adult perpetrators of crime;

3) To reduce nocturnal juvenile crime and juvenile delinquency;

4) To promote family responsibility and parental control over their children; and

5) To protect and promote the peace, health, safety, welfare and tranquility of the community and citizens of the city of Rexburg. (Ord. 801 §1, 1997: Ord. 789 §1, 1996).

9.03.020 Definitions

Certain words and phrases used in this chapter are defined as follows:

1) Curfew hours: means the hours between eleven p.m. and five a.m. the next day, beginning on Sundays and running until Thursdays of each week, and from twelve-thirty a.m. to five a.m.

the next day on Saturday and Sunday mornings. (Commonly known as Friday and Saturday nights from twelve- thirty a.m. to five a.m.)

2) Emergency: means an unforeseen combination of circumstances or the resulting state that calls for immediate action to prevent, control or minimize serious bodily injury, death or significant loss of property.

3) Employment activity: means the performance of any responsibilities or duties expressly or impliedly required as a condition of employment of a minor.

4) Establishment: means any privately owned place of business operated for a profit to which the public is invited, but not limited to, any place of amusement or entertainment.

5) Guardian: means (1) a person who, under court order, is the guardian of the person of a minor; (2) a public or private agency with whom a minor has been placed by order of a court; or (3) a person to whom a parent or guardian has delegated any of his or her powers with respect to a minor pursuant to Section 15-5-104 of the Idaho Code.

6) Minor: means any person under the age of eighteen years.

7) Operator: means any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation which owns or operates an establishment.

8) Parent: means a person who is a natural parent, adoptive parent or step-parent of a minor.

9) Public place: means any place to which the general public has access including, but not limited to, streets, highways, alleys, sidewalks and common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, shopping malls, public parking lots and commercial businesses. (Ord. 801 §2, 1997: Ord. 789 §2, 1996).

9.03.030 Juvenile curfew

Any minor who is found in any public place or on the premises of any establishment within the city during curfew hours is guilty of an infraction. (Ord. 801 §3, 1997: Ord. 789 §3, 1996).

9.03.040 Parental violation of curfew hours

Any parent or guardian of a minor is guilty of a misdemeanor if he or she knowingly permits, or by culpable indifference allows, such minor to be found in any public place or on the premises of any establishment within the city during curfew hours. (Ord. 801 §4, 1997: Ord. 789 §4, 1996).

9.03.050 Violation of curfew hours by business establishment

Any owner, operator or any employee or other person in control of an establishment is guilty of a misdemeanor if he or she knowingly or willingly allows any minor to be upon the premises of the establishment during curfew hours. (Ord. 801 §5, 1997: Ord. 789 §5, 1996).

9.03.060 Defenses

The following shall be a defense to prosecution under this chapter:

1) It is a defense to prosecution if the offending minor was:

   a) Accompanied by the minor's parent or guardian;

   b) On an errand at the express direction of the minor's parent or guardian, without any detours or stops;

   c) In a motor vehicle involved in interstate travel, passing through the city to some destination other than the city, provided there be no detours or stops other than as necessary to accomplish the travel;

   d) Engaged in employment activity, or going to an employment activity or returning to the minor's place of residence from an employment activity, without any detours or stops;

   e) Involved in an emergency;

   f) Within the yard or upon the sidewalk abutting the minor's residence or abutting the residence of another adult with whom the parent or guardian of such minor has expressly placed temporary custody of the minor;

   g) Attending an officially sponsored school, religious or other recreational, cultural or educational activity supervised by adults and sponsored by a public entity or a religious, charitable, fraternal, civil or other similar organization organized by adults, or going to or returning home from such activities, without detours or stops;

   h) Exercising First Amendment Rights protected by the United States Constitution or rights protected by Article I, Section 9 of the Constitution of the state of Idaho;

   i) Is married or has had the disabilities of minority removed in the manner provided by law.

2) It is a defense to prosecution under Section 9.03.050 that the owner, operator or employee of an establishment asked the minor to leave the premises and promptly notified the police department that a minor is present on the premises of the establishment during curfew hours and refuses to leave. (Ord. 801 §6, 1997: Ord. 789 §6, 1996).

9.03.070 Enforcement

Before taking any enforcement action under this chapter, a peace officer shall ask the apparent offending minor's age and reason for being in the public place or establishment. The peace officer shall not issue a citation or make an arrest under this chapter unless the officer reasonably believes that a violation has occurred and that, based on any response and all other circumstances, no defense is present. Any peace officer who arrests a minor under this chapter shall immediately take the minor to the police station and summon his or her parent or guardian. If the minor's parent or guardian arrives within a reasonable period of time, the minor shall be released upon the recognizance of his or her parent or guardian. If the parent or guardian cannot

be located or does not appear at the police station within a reasonable period of time, the minor shall be kept in the custody of the police department or shall be turned over to juvenile authorities and thereafter shall remain in their custody in the manner provided by law. (Ord. 801 §7, 1997: Ord. 789 §7, 1996).

9.03.080 Penalties

Any person who violates a provision of this chapter shall be guilty of a misdemeanor and punished pursuant to Idaho Code, Section 18-113, as amended, and with the following qualifications:

1) Upon a second conviction within a three-year period, of a parent or guardian for a violation of Section 9.03.040 of this chapter, the parent or guardian shall be fined no less than one hundred dollars in conjunction with any other sentence or costs deemed appropriate, by the court.

2) Upon a third or greater conviction within a three year period, of a parent or guardian for a violation of Section 9.03.040 of this chapter, the parent or guardian shall be fined no less than two hundred fifty dollars in conjunction with any other sentence or costs deemed appropriate by the court. (Ord. 801 §8, 1997: Ord. 789 §8, 1996).

CHAPTER 9.04 HOUSE OF ILL-FAME

9.04.010 Prostitution prohibited

If any person shall within the corporate limits of the City of Rexburg, or within three miles form the outer boundary thereof, keep a house of ill-fame, bawdy house or other disorderly house or place resorted for the illicit sexual commerce or lewdness or shall reside in or resort to, for the purpose of lewdness, illicit sexual gratification, prostitution or disorderly conduct or who shall loiter in or around any house of ill-fame, bawdy or other disorderly house or place resorted to for illicit gratification, prostitution or lewdness or used by one or more females for the purpose of illicit sexual commerce or lewdness or shall let or lease any place or house form any such purpose he shall be liable to a fine in any sum not to exceed one hundred dollars or to imprisonment not exceeding one hundred days at the discretion of the court. Or to both such fine and imprisonment. Every person having charge care or control or any of the house named in this shall for the purpose of prosecution be deemed the keeper thereof. (Ord. 134 §1, 1909).

9.04.020 Enforcement(

Whenever any peace officer of the City has reasonable grounds to believe that any house or place is kept for the purposes named in section one, it shall be lawful for such officer to enter such house or place without warrant, and to arrest all persons found therein, and take them before the police justice for trial. (Ord. 72 §2, 1903).

9.04.030 Violation – Penalty

It shall be unlawful for any person or persons to ply the vocation of prostitutes or for any person or persons to have illicit sexual intercourse with any person plying the vocation of prostitution whether the same be for sexual gratification or for hire, or for any person or persons to have

illicit sexual intercourse, at any place within the corporate limits of the City of Rexburg. Every person violating any of the provisions of this section shall be guilty of a misdemeanor. (Ord. 134 §1(part), 1909).

CHAPTER 9.05 GAMBLING

9.05.010 Gambling prohibited

Any person by who shall within the City of Rexburg, deal, play, or carry on, or shall open, or cause to be opened or shall suffer or permit to be opened or carried on in any premises under his control or management, or shall conduct either as owner, employee, or lessee, whether for hire or not any game of faro, monte, roulette, lausgrenet, rouge et noir, rondo or any game played with cards, dice, or any other device, for money, checks, credit or any other representative of values; or who runs, operates , or suffers to be run or operated upon any premises under his control or management, any slot machine, shall upon conviction thereof, be fined in any sum not less than twenty-five ($25) dollars. (ord. 71, §1, 1903).

9.05.020 Enforcement

Whenever any police judge or justice of the peace shall have knowledge or shall receive satisfactory information that there is any gambling table or gambling device adopted or devised and designated for the purpose of playing any of the games of chance prohibited in section 9.05.010, within his jurisdiction, it shall bear his duty to forthwith issue his warrant directed to the chief of police or any peace officer, to seize and bring before him such gambling table or other device, and cause the same to be publically destroyed, by burning or otherwise. (Ord. 71 §2(part), 1903).

CHAPTER 9.06 PUBLIC INTOXICATION

9.06.010 Public drunkenness

Any person who shall be in the streets, or alleys, or other public places, within the corporate limits of the City of Rexburg, or in view of the public gaze, in a state of drunkenness, or shall expose his or her person indecently, or obscenely, or who shall, in any such public place of said City of Rexburg, in a loud, angry, or threatening manner, use any vulgar, obscene, or profane language of an insulting character, tending in any way to injure, or harm, or offend the senses of any person or persons or wherby the peace and quiet of the inhabitants of said City of Rexburg may be deemed guilty of a misdemeanor. (Ord. 72 §4, 1903).

CHAPTER 9.07 NOISE*

*Note to Chapter 9.07: For provisions regarding vehicular noise, see Idaho Code §67-7125.

9.07.010 Disturbing the peace

Any person who maliciously and willfully disturbs the peace of any neighborhood, family, person, by loud or unusual noise, or by tumultuous or offensive conduct, or by threatening, traducing, quarreling, challenging to fight or fighting, or fires any gun or pistol, or uses any vulgar, profane or indecent language within the presence of hearing of children, in a loud and boisterous manner, is guilty of a misdemeanor. (Idaho Code §18-6409).

9.07.020 Unlawful use of engine brakes and compression brakes

It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the corporate city limits of the City of Rexburg, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual, or explosive noise from such vehicle. (Ord. 906 §1, 2003).

9.07.030 Engine brakes – Severability

If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof, not adjudged invalid or unconstitutional. (Ord. 906 §2, 2003).

9.07.040 Engine brakes – Penalty

Violation of this chapter shall be deemed an infraction. The scheduled fine for a violation of this section 9.07.020 shall be set forth in Appendix 3. (Ord. 906 §3, 2003).

CHAPTER 9.08 VAGRANCY

9.08.010 Vagrancy prohibited – Penalty

Persons within the limits of the city, who have the physical ability to work, not having visible means of support, living idly, or who are found loitering about the streets and public places, or lodging in the nighttime upon the premises of others and not giving a satisfactory account of themselves and all common drunkards shall be deemed vagrants, and on conviction shall be liable for each offense to a fine in any sum less than one hundred dollars or to imprisonment. (Ord. 72 §7, 1903).

TITLE 10 VEHICLES AND TRAFFIC

Title 10 sets forth the vehicle and traffic laws of the City.

For statutory provisions authorizing cities to regulate all public ways and streets within their jurisdiction, see Idaho Code §§50-313 and 50-314. For provisions authorizing cities to enact ordinances to provide additional rules and regulations over and above the state regulations, see Idaho Code §49-202. For provisions specifying areas which cities have jurisdiction to regulate, see Idaho Code §49-529.

CHAPTER 10.01 IDAHO MOTOR VEHICLE LAWS*

*****Note to Chapter 10.01: For statutory provisions authorizing adoption of certain code by reference, see Idaho Code §50-901. For the Idaho Motor Vehicle Laws, see Idaho code Title 49.

10.01.010 Intent of provisions

It is declared to be the intent of the governing body of the city to aid and assist, by whatever means possible, for the utmost consistency in traffic regulation among and between agencies of Idaho having such jurisdiction. Toward that end, adoption of the Idaho Motor Vehicle Laws by the cities of Idaho is a necessary means of assuring maximum uniformity within the state. (Ord. 511 §1, 1971).

10.01.020 State Motor Vehicle Laws – Adopted by reference

There is adopted, for the purpose of establishing rules and regulations for the use of all streets and public thoroughfares of the city, that certain code identified as the 1969 Revised Edition, Idaho Motor Vehicles Laws, more particularly Title 49, Idaho Code, published by the Department of Law Enforcement, and as the same may hereafter be revised by the Idaho Legislature or amended by the governing body, and the same is adopted and incorporated as an ordinance of the city as fully as though set forth at length in this chapter. (Ord. 511 §2, 1971).

10.01.030 State Motor Vehicle Laws – Copies on file for public use

Three copies of the Idaho Motor Vehicle Laws adopted in Section 10.01.020, together with any revisions or amendments, duly certified by the city clerk-treasurer, shall be kept on file in the clerk--treasurer's office for use and examination of and by the public. (Ord. 511 §3, 1971).

CHAPTER 10.02 GENERAL PROVISIONS*

*Note to Chapter 10.02: For provisions concerning obedience to traffic regulations, exempting emergency vehicles, see Idaho Code §49-522 et seq.

For statutory provisions setting out definitions for the Idaho Motor Vehicle Laws, see Idaho Code §§49-101, 49-201, 49-301 et seq., 49-401, 49-501 et seq., 49-1201, 49-1501, 49-1801, 49-2301, 49-2402 and 49-2603.

10.02.010 Applicability of provisions

The provisions of this title relating to the operation of vehicles refer exclusively to the operation of vehicles upon the streets and roadways within the limits of the city. (Ord. 482 (part), 1968).

10.02.020 Noncompliance deemed misdemeanor

It is unlawful and it is a misdemeanor for any person to do any act forbidden, or fail to perform any act required in this title. (Ord. 482 (part), 1968).

10.02.030 Vehicle and traffic definitions

The following words and phrases when used in this Chapter shall have the meanings respectively ascribed to them:

1) Alley: That thoroughfare which intersects blocks of the Municipality at the rear of lots said blocks or transverses blocks between regularly established streets.

2) Authorized emergency vehicle: Vehicles of the Fire Department, Police vehicles and such ambulances and emergency vehicles of municipal departments or public service corporations as are designated or authorized by the Chief of Police.

3) Bicycle: Every device propelled by human power upon which any person may ride, having two (2) tandem wheels.

4) Bus: Every motor vehicle designed for carrying more than ten (10) passengers and used for the transportation of persons, and every other motor vehicle, other than a taxi cab, designed and used for the transportation of persons for compensation.

5) Business district: All territory within the City zoned as C Commercial and I Industrial under the provisions of the City Ordinance pertaining to zoning, and all territory contiguous to and including a thoroughfare when within any six hundred feet (600') along such thorough fare there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings which occupy at least three hundred feet (300') collectively on both sides of the thoroughfare.

6) Commercial vehicle: Every vehicle designed, maintained or used primarily for the transportation of property of persons for hire.

7) Controlled-access highway: Every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same except as such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

8) Crosswalk: (1) That part of a roadway at an intersection included within the connections of the laterals of the sidewalk on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadways. (2) Any portion of a

roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

9) Curb loading zone: The space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

10) Driver: Every person who drives or is in actual physical control of a vehicle.

11) Intersection: (1) The area embraced within the prolongation or connection of the lateral curb lines, or if none, then the lateral boundary lines of the roadway of the two (2) highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

12) Laned roadway: A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

13) Laned roadway: A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

14) Motor vehicle: Every vehicle, as herein defined, which is self-propelled and every vehicle designated to be drawn upon a public thoroughfare behind and in conjunction with a self-propelled motor vehicle, provided there shall be excluded herefrom every such vehicle so drawn, excepting house trailers, whose unladed weight is less than two thousand (2,000) pounds.

15) Motorcycle: Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground. Every motor scooter with a motor which produces not to exceed five (5) horse power and every bicycle with motor attached, but excluding a tractor.

16) Official time standard: Whenever certain hours are named herein they shall mean standard time or daylight saving time as may be in current use for the Municipality.

17) Park: When prohibited, means the standing of a vehicle whether occupied or not, otherwise than temporarily for the purpose of an while actually engaged in loading or unloading.

18) Parking meter or meters: Shall mean a mechanical device which is so adjusted as to show the length of time of parking upon the street.

19) Parking meter zone: Means any and all zones, alleys or streets established or designated by the Chief of Police with the consent of the council, as those zones, alleys or streets, or parts of streets, within or upon which the parking of vehicles shall be controlled, regulated and inspected with the aid of timing devices and meters, herein referred to as parking meters.

20) Pedestrian: Any person afoot.

21) Police officer: Every office of the Municipal Police Department or any office authorized to direct or regulate traffic or to make arrests for violation of traffic regulations.

22) Private road or driveway: Every way or place in private ownership and used for vehicular travel by the owner and those having expressed or implied permission from the owner but not by other persons.

23) Railroad train: A steam engine, electric or other motor, with or without cars coupled thereto operated upon rails.

24) Railroad: A carrier of persons or property operated upon stationary rails.

25) Residence district: All territory within the City zoned as R1, R2, or R3 Residence Districts under the provisions of the City Ordinance pertaining to zoning and all territory contiguous to and including the thoroughfare not comprising a business district when the property on such thoroughfare for a distance of three hundred feet (300') or more is in the main improved with residences and other buildings.

26) Right-of-way: The privilege of the immediate use of the public thoroughfare.

27) Roadway: That portion of a street of highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

28) Safety zone: The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

29) Semi-trailer: Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

30) Sidewalk: That portion of a street between the curb line or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians.

31) Stop, stopping or standing: When prohibited, means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

32) Stop: Complete cessation of movement.

33) Street or highway: The entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for the purpose of vehicular travel.

34) Through highway: Every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

35) Through highway: Every highway, street or roadway in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or form the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

36) Tractor: Every motor vehicle designed and used primarily for drawing other vehicles or equipment constructed to carry or not to carry some substantial part of the weight of the vehicle or equipment being drawn.

37) Traffic controlling devices: All signs, signals, markings and devices not inconsistent with this ordinance placed or erected by authority of a public body or officer having jurisdiction, for the purpose of regulating, warning or guiding traffic. TRAFFIC CONTROL SIGNAL: Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

38) Traffic division: The Traffic Division of the Police Department or in the event a Traffic Division is not established, than said term whenever used herein shall be deemed to refer to the Police Department.

39) Traffic: Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any public thoroughfare for purposes of travel.

40) Trailer: Every vehicle with or without motive power, designed for carrying persons or property and for being drawn by a motor vehicle.

41) Truck: Every motor vehicle designed, used, or maintained primarily for the transportation of property.

42) Vehicle: Every device, in, upon or by which any person or property is or may be transported or drawn upon a thoroughfare, including dead end streets, except devices moved by human power or used exclusively upon stationary tracks or rails. (Ord. 482 (part), 1968).

CHAPTER 10.03 ENFORCEMENT*

*Note to Chapter 10.03: For statutory provisions concerning backing, obstruction of driver's view, interference with fire equipment, depositing litter on street, and motorcycle riding, see Idaho Code §49-760 et seq.; for provisions requiring that all motor vehicles driven upon the highways of the state be registered and licensed, see Idaho Code §49-125; for provisions concerning stopping when approaching a school bus with the stop arm extended, see Idaho Code §49-752a.

10.03.010 Applicability of State laws

All traffic laws of the State and the rules and regulations thereunder, not covered by this ordinance, shall apply to and cover the operation of vehicles and traffic upon the streets of the City to the same effect as if incorporated herein. (Ord. 482(part), 1968).

10.03.020 Officer authority

Officers of the police department shall have the power and it shall be their duty to enforce all traffic regulations, including applicable state laws, within the city; to make arrests for traffic violations; to require all persons using the streets of the city to do so carefully, safely and with the exercise of care for the person, property and safety of others; and, in accordance with the provisions of this title, to safeguard and protect the surface and other paved portions of the streets and enforce any laws for highway safety; to regulate traffic on all the streets and roadways within the city; to make arrests for traffic violations; to investigate accidents; to cooperate with state, county and other officials in the administration of traffic laws and in developing ways and means to improve traffic conditions, and to carry out all such other duties as are specially imposed upon the department by this title. (Ord. 482 §2(part), 1968).

10.03.030 Obedience to police officers

No person shall lawfully fail or refuse to comply with any lawful order or direction of any police officer vested by law with authority to direct, control or regulate traffic. (Ord. 482(part), 1968).

10.03.040 Obedience by police officers

The provisions of this Ordinance applicable to the driving of vehicles upon the streets shall apply to the drivers of all vehicles owned or operated by the City, by the United States, the State or any other County, City, Village or other political subdivision of the State, except as provided in this Ordinance, and subject to such exemptions as are set forth in this Ordinance with reference to authorized emergency vehicles. (Ord. 482(part), 1968).

10.03.050 Traffic record requirements

The police department shall keep and maintain traffic records in respect to the following matters, such records to accumulate for a period of at least five years and thereafter such records shall be maintained complete for at least the most recent five-year period.

1) The police department shall keep a record of all violations of traffic regulations (except standing or parking violations) of which any person has been charged, together with a record of the final disposition of all such cases.

2) The police department shall keep a record of all accidents investigated by the department and of the disposition of all cases where arrests and prosecutions of persons for causing or contributing to such accidents have been made.

3) The police department shall keep and maintain a record of the traffic accidents, warnings, arrests and convictions of each driver charged with violations of this title (except for violations of standing or parking regulations) which shall be filed alphabetically under the name of the driver concerned, and it shall be the duty of the police department to bring to the attention of the court, in the prosecution of any driver for a traffic violation, any record of prior violations charged against such driver so maintained by the department.

4) All records required to be kept under the provisions of this section shall be public records. (Ord. 482 §3(part), 1968).

10.03.060 Accident investigation duties

1) It shall be the duty of the police department officers to investigate all traffic accidents coming to their attention, to determine, so far as is possible, the cause thereof, and to make arrests and assist in the prosecution of those persons who, by reason of violation of the traffic laws, caused or contributed to such accidents.

2) Whenever the accidents at any particular location become numerous, the police department shall conduct studies thereof and endeavor to adopt remedial measures to prevent future accidents at such locations. (Ord. 482 (part), 1968).

10.03.070 Excessive violations

Whenever it appears that any driver has been charged with frequent or an excessive number of traffic violations of a serious nature, the police department shall attempt to discover the reasons therefore and shall take such reasonable and lawful steps as appear likely to prevent further violations by such driver, including suspension or revocation of such driver's license. (Ord. 482 (part), 1968).

10.03.080 Annual traffic report required

The police department shall annually prepare a traffic report which shall be filed with the mayor and council, containing information as to the number of traffic accidents, the number of persons killed, the number of persons injured, the number of traffic accidents investigated, the number of arrests made for violation of the traffic laws, and shall make plans and recommendations of the police department for future traffic safety activities and other pertinent traffic accident data. (Ord. 482 (part), 1968).

10.03.090 Funeral processions

The police department shall designate suitable insignia or other means to identify the vehicles in a funeral procession and may provide a police escort for such processions, whenever, in the opinion of the head officer of the traffic division of the police department, such police escort is necessary. (Ord. 482 (part), 1968).

10.03.100 Authority to regulate traffic movement

The police department, with the approval by resolution of the mayor and council, may designate those portions of any street or roadway where overtaking and passing or driving on the left side of the street or roadway would be a special hazard, to be known as "no passing zones," may designate any street, alley or separate roadway within the city for one-way traffic, and may designate any street or roadway or portion thereof within the city where parking on all or any part of the street or roadway may be prohibited either all of the time or within certain designated hours. When appropriate signs are erected, such designations shall be effective at all times thereafter. (Ord. 482 (part), 1968).

10.03.110 Play streets – Police chief authority to designate

The chief of police shall have authority to declare any street or part thereof as a play street for certain hours of the day by posting appropriate signs indicating the hours when traffic shall be prohibited in such area. (Ord. 482 (part), 1968).

10.03.120 Exemption of persons and equipment working on streets

Unless specifically made applicable, the provisions of this Ordinance shall not apply to person, teams, motor vehicles and other equipment while actually engaged in the work of garbage removal, construction, repair or maintenance of the streets or roadways of the City, but shall apply to such persons and vehicles when driving to and from such work, City, but shall apply to such persons and vehicles when driving to and from such work. (Ord. 482(part), 1968).

10.03.130 Authorized emergency vehicles

The driver of an authorized emergency vehicle, when responding to an emergency call or when in pursuit of an actual or suspected violator of the law or when responding to, but not returning from, a fire alarm, may exercise the privileges set forth in this ordinance, but subject to the conditions hereinafter stated.

1) The driver of an authorized vehicle may park or stand, irrespective of the provisions of this Ordinance.

2) May proceed past a red or stop signal or stop sign, but only after slowing down as much as may be necessary for safe operation of the emergency vehicle.

3) May exceed the prima facie speed limits so long as he does not endanger life or property.

4) May disregard regulations governing direction or movement of traffic or turning of traffic in a specified directions. The exemptions herein granted to an authorized emergency vehicle shall apply only when a driver of any said vehicle in motions sounds an audible signal by bell, siren or exhaust whistle as may be reasonably necessary and when the vehicle is equipped with at least one (1) red lamp displaying a red light visible under normal atmospheric conditions from a distance or five hundred feet (500') to the front of such vehicle, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

5) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (Ord. 482(part), 1968).

10.03.140 Persons riding or driving animal – drawn vehicle

Every person riding or driving any animal-drawn vehicle upon a street or roadway shall be granted all of the rights and shall be subject to all of the duties appertaining to the driver of a vehicle, of this Ordinance, except those provisions of this Ordinance which by their very nature can have no application. (Ord. 482(part), 1968).

10.03.150 Driving under the influence

1. It is unlawful and punishable as provided in this Ordinance for any person who is under the influence of intoxicating liquor to drive or be in actual physical control of any vehicle within the City.

2. In any criminal prosecution for a violation of Subsection 9A) of this section relating to driving a vehicle while under the influence of intoxicating Liquor, the amount of alcohol in the defendant's blood at the time alleged as shown by chemical analysis of the defendant's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

   a) If there was at that time five hundreds percent (0.05%) or less by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was not under the influence of intoxicating liquor;

   b) If there was at that time in excess of five hundreds percent (0.05%) but less than fifteen hundreds percent (0.15%) by weight of alcohol in the defendant's blood, such fact shall not five rise to any presumption that the defendant was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining the guilt or innocence of the defendant;

   c) If there was at the time fifteen hundreds percent (0.15%) or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor;

   d) The foregoing provisions of Subsection (B) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not the defendant was under the influence of intoxicating liquor.

3. It is unlawful and punishable as provided in this Ordinance for any person who is a habitual user of, or under the influence of any narcotic drug, or who is under the influence of any other drug to a degree which renders him incapable of safely driving a vehicle to drive a vehicle within the City. The fact that any person charged with a violation of this subsection is or has been entitled to use such drug under the laws of this State shall not constitute a defense against any charge of violating this subsection.

4. Any person who operated a motor vehicle or motorcycle in the City shall be deemed to have given his consent to a chemical test of his breath, blood, urine or saliva for the purpose of determining the alcoholic content of his blood; provided, that such test is administered at the direction of a police officer having reasonable grounds to believe such person has been driving in an intoxicated condition and in accordance with the rules and regulations established by the Police Department of which he is a member. If such person having been placed under arrest and having thereafter been requested to submit to such chemical test refuses to submit to such chemical test the test shall not be given but the Police Judge shall suspend his license or permit to drive and any nonresident operating privilege, provided, however, the Police Judge shall grant such person an opportunity to be heard but a license, permit or nonresident operating privilege may, upon the basis of a sworn report of the Police

Officer that he had reasonable grounds to believe such arrested person to have been driving in an intoxicated condition and that such person had refused to submit to such test be temporarily suspended without notice pending the determination upon any such hearing.

Upon the request of the person who was tested the results of such test shall be made available to him.

Only a physician, or registered nurse acting at the request of a police officer, can withdraw blood for the purposes of determining the alcoholic content therein. This limitation shall not apply to the taking of a urine, saliva or breath specimen.

The person tested shall be permitted to have a physician of his own choosing administer a chemical test in addition to the one administered at the direction of the Police officer. (Ord. 482(part), 1968).

10.03.160 Reckless driving

It shall be unlawful for any person to drive any vehicle within the corporate limits of the City of Rexburg, Idaho, carelessly and heedlessly or without due caution and circumspection and at a speed, or in a manner, so as to endanger or be likely to endanger any person or property, or who passes when there is a line in his lane indicating a sight distance restriction. (Ord. 482(part), 1968).

10.03.170 Negligent driving

It shall be unlawful for any person to operate a motor vehicle in a negligent manner within the corporate limits of the City of Rexburg, Idaho. For the purpose of this section to "operate in a negligent manner" shall be construed to mean the operation of a vehicle within the corporate limits of the City of Rexburg, Idaho, in such a manner as to endanger, or be likely to endanger any persons or property.

The offense of operating a vehicle in a negligent manner shall be considered to be a lesser offense than, but included in, the offense of operating a vehicle in a reckless manner, and any person charged with operating a vehicle in a reckless manner may be convicted of the lesser offense of operating a vehicle in a negligent manner. (Ord. 482(part), 1968).

ARTICLE I TRAFFIC ARRESTS

10.03.180 Appearance in police court

Whenever any person is halted by a Police officer for any violation of this Ordinance, the person shall, in the discretion of the officer, either be given a traffic citation as hereinafter provided, or be taken without unnecessary delay before the Police Judge when the person does not furnish satisfactory evidence of identity or where the officer has reasonable and probable grounds to believe such person will disregard his written promise to appear in Police Court. (Ord. 482(part), 1968).

10.03.190 Traffic citations

Whenever a person is halted by a police officer for violation of this Ordinance and is not taken before the Police Judge as hereinbefore required or permitted the officer shall prepare in quadruplicate a written traffic citation containing a notice to appear in Court, the name and address of the person charged, the time and place when and where the offense charged occurred, and the time when the person charged shall appear in Police Court, and such other pertinent information as may be necessary. (Ord. 482(part), 1968).

10.03.200 Posting of bail

Whenever any person is taken into custody by a Police Officer for the purpose of taking him before the Police Court and the Police Judge is not available at the time of arrest, such person shall be released upon depositing with the desk officer at the Police Department office, the amount of bail established by the Police Judge for the particular offense charged and his signing a promise to appear before the Police Court at the time required. (Ord. 482(part), 1968).

10.03.210 Failure to appear

It shall be unlawful for any person to violate his written promise to appear in court given to an officer upon the issuance of a traffic citation, regardless of the disposition of the charge upon which such citation was originally issued. A written promise to appear in court may be complied with by an appearance by counsel. (Ord. 482(part), 1968).

10.03.220 Arrest without warrant

The foregoing provisions of paragraph 4 shall govern all police officers in making arrests without a warrant for violations of this Ordinance, but the procedure prescribed herein shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense of like grade. (Ord. 482(part), 1968).

10.03.230 Evidence not permissible in civil action

No evidence of the conviction of any person for any violation of this Ordinance shall be admissible in any Court in any civil action. (Ord. 482(part), 1968).

10.03.240 Parking citations

Citations for violations of parking regulations may be issued by any police officer by placing the same upon the windshield of the vehicle in a secure manner, or inside the vehicle in a prominent place. Depositing such citation with the amount of penalty stated thereon with the Police Department or in any collection box shall be designated by the police Department shall be a compliance with the citation. It shall be unlawful for any person to fail to comply with any such citation for parking violations. (Ord. 482(part), 1968).

CHAPTER 10.04 VEHICLE EQUIPMENT

10.04.010 Vehicles in unsafe condition

It shall be unlawful for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any street or roadway in the City any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property, or which does not contain those parts or is not at all times equipped with such lamps and other requirements in proper condition and adjustment as required by this Ordinance or by the laws of the State, or which is equipped in any manner in violation of this Ordinance or the laws of the State. (Ord. 482 (part), 1968).

10.04.020 Head lamps

1) Every vehicle other than a motorcycle shall be equipped with at least two (2) head lamps with at least one (1) on each side of the front of the motor vehicle which shall comply with the requirements and limitations of this Ordinance.

2) Every Motorcycle and every motor driven cycle shall be equipped with at least one (1) and not more than two (2) head lamps which shall comply with the requirements and limitations of this Ordinance.

3) Every head lamp upon every motor vehicle and every motor driven cycle, including motorcycles, shall be located at a height measured from the center of the head lamp of not more than fifty-four inches (54") nor less than twenty-four inches (24") from the ground measured with respect to a vehicle upon level ground when the vehicle is without a load. (Ord. 482 (part), 1968).

10.04.030 Tail lamps

1) Every motor vehicle, trailer, semi-trailer and any other vehicle which is being drawn at the end of a train or vehicles shall be equipped with at least one (1) tail lamp mounted on the rear, which, when lighted as in this ordinance required, shall emit a red light plainly visible from a distance of five hundred feet (500') to the rear; provided, that in the case of a train of vehicles only the tail lamp of the rear most vehicle need actually to be seen from the distance specified. Every tail lamp upon every motor vehicle shall be located at a height of not more than seventy-two inches (72") , nor less than twenty inches (20") from the ground measured with respect to a vehicle standing on level ground, without a load.

2) A tail lamp or a separate lamp shall be son constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet (50') to the rear. Such lamp shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted. (Ord. 482 (part), 1968).

10.04.040 Additional equipment required on certain vehicles

In addition to other equipment required in the Ordinance, the following vehicles shall be equipped as hereinafter stated, during the hours when lighted lamps are required by the Ordinance:

1) On every bus, or truck, whatever its size, there shall be the following:

   a) On each side, one (1) reflector, at or near the rear.

   b) On the rear, two (2) reflectors, on (1) at each side, and one (1) stoplight.

2) On every bus or truck eighty inches (80") or more in overall width and less than thirty feet (30') in overall length, in addition to the requirements in subsection (A):

   a) On the front, two (2) clearance lamps, one (1) at each side.

   b) On the rear, two (2) clearance lamps, one (1) at each side.

3) On every bus or truck thirty feet (30') or more in overall length, regardless of its width, in addition to the requirements in subsection (A):

   a) Clearance lamps required in subsection (B) above.

   b) On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear.

   c) On each side, one (1) reflector at or near the front.

4) On every truck tractor the cab of which is as wide as or wider than any vehicle being drawn:

   a) On the front, two (2) clearance lamps, one (1) at each side.

   b) On each side, one (1)side marker lamp at or near the front.

5) On every trailer or semi-trailer having a gross weight in excess of three thousand (3,000) pounds, if wider than the truck or the cab of the truck tractor drawing it, the following:

   a) On the front, two (2) clearance lamps, one (1) at each side.

   b) On each side, two (2) side marker lamps, one (1) at or near the front and one (1) at or near the rear.

   c) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear.

   d) On the rear, two (2) clearance lamps, one (1) at each side, also two (2) reflectors, one (1) at each side, and one (1) stoplight.

6) On every trailer or semi-trailer having a gross weight in excess of three thousand (3,000) pounds if of the same width or less than the truck or the cab of the truck drawing it, the following:

   a) On each side, one (1) side marker lamp near the rear.

b) On each side, two (2) reflectors, one (1) at or near the front and one (1) at or near the rear.

c) On the rear, two (2) reflectors, one (1) at each side and one (1) stoplight.

7) On every pole trailer in excess of three thousand (3,000) pounds gross weight:

a) On each side, one (1) side marker lamp and one (1) clearance lamp which may be in combination, to show the front, side and rear.

b) On the rear of the pole trailer or lead, two (2) reflectors, one (1) at each side.

8) On every trailer, semi-trailer and pole trailer weighing three thousand (3,000) pounds gross or less:

a) On the rear, two (2) reflectors, one (1) on each side. If any trailer or semi-trailer is so loaded or is of such dimensions to obscure the stoplight on the towing vehicle, then such vehicle shall also be equipped with one (1) stoplight. (Ord. 482 (part), 1968).

10.04.050 Color of lamps and reflectors

1) Front clearance lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display a reflection in amber color.

2) Rear clearance lamps and those marker lamps and reflectors mounted on the rear or on the side near the rear of a vehicle shall display or reflect a red color.

3) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except a stoplight or other signal device, which may be red, amber or yellow and except that the light illuminating the license plate shall be white and the light emitted by a backup light may be white, amber or red. (Ord. 482 (part), 1968).

10.04.060 Lamp or flag on projecting load

Whenever the load upon any vehicle extends to the rear four feet (4') or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load during the time lighted lamps are required, a red light or lantern plainly visible from a distance of at least five hundred feet (500') to the side and rear. The red light or lantern required under this provision shall be in addition to the red rear lights required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches (16") square and so hung that the entire area is visible to the driver of a vehicle approaching from the rear. (Ord. 482 (part), 1968).

10.04.070 Lamps on parked vehicles

1) Whenever a vehicle is lawfully parked upon a street or roadway during the hours between a one-half (½) hour after sunset and a one-half (½) hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred feet (500') upon such street or roadway, no light need be displayed upon such parked vehicle.

2) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended during the hours between a one-half (½) hour after sunset and a one-half (½) hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred feet (500') upon such roadway such vehicle so parked or stopped shall be equipped with one (1) or more lamps displaying a white or amber light visible from a distance of five hundred feet (500')to the front of the vehicle and the same lamp or another lamp displaying a red light visible from a distance of five hundred feet (500')to the rear of the vehicle and the location of said lamps shall always be such hat at least one (1) lamp or combination of lamps meeting the requirements of these provisions is installed as near as practicable to the side of the vehicle which is closest to passing traffic. This provision shall not applying to a motor cycle.

3) Any light head lamp upon a parked vehicle shall be depressed or dimmed. (Ord. 482 (part), 1968).

10.04.080 Lamps on other equipment and vehicles

Every vehicle, including animal-drawn vehicles, not otherwise specifically required by the provisions of this Ordinance to be equipped with lamps or other lighting devices, shall at all times when lighted lamps are required, be equipped with at least one (1) lamp displaying a white light visible from a distance of not less than five hundred feed (500') to the front of such vehicle and shall also be equipped with two (2) lamps displaying a red light visible from a distance of not less than five hundred feet (500') to the rear and two (2) reflectors visible for distances of one hundred feet (100') to six hundred feet (600') to the rear when illuminated by the upper beams of head lamps. (Ord. 482 (part), 1968).

10.04.090 Brakes

1) Every motor vehicle, other than a motorcycle , when operated upon a street or roadway within the City, shall be equipped with brakes adequate to control the movement of and to stop and hold such vehicle, including two (2) separate means of applying the brakes, each of which shall be effective to apply the brakes to at least two (2) wheels. If these two (2) separate means of applying brakes are connected in any way, they shall be so constructed that failure of any one (1) part of the operating mechanism shall not leave the motor vehicle without brakes on at least two (2) wheels.

2) Every motorcycle when operated upon a street or roadway within the City shall be equipped with at least one (1) brake which may be operated by hand or foot.

3) Every trailer or semi-trailer of a gross weight of three thousand (3000) pounds or more, when operated upon a street or roadway within the city shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle and so designed as to be applied by the driver of the towing vehicle from its cab and said brakes shall be so designed and connected that in case of accidental brake away of the towed vehicle the brakes shall be automatically applied.

4) One of the means of brake operation shall consist of mechanical connection from the operating lever to the brake shoes or bands and this brake shall be capable of holding the

vehicle, or combination of vehicles stationary under---- condition of loading on any upgrade or downgrade upon which it is operated.

5) The brake shoes operating within or upon the drums of the vehicle wheels of any motor vehicle may be used for both service and hand operation.

6) Every motor vehicle or combination of vehicles, at all times, and under all conditions of loading, shall, upon application of the service or foot brake, be capable of decelerating and developing a braking force equivalent to such deceleration according to the minimum requirements set forth herein, and also of stopping within the distances et forth herein:

	Stopping distance in feet	Deceleration in feet per second per second	Equivalent braking force in percentage of vehicles or combination weight
Passenger vehicles, not including buses	25	17	53.0%
Single unit vehicles with a manufacturer's gross vehicle weight rating of less than 10,000 pounds	30	14	43.5%
Single unit; two-axle with a manufacturer's gross vehicle weight rating of less than 10,000 pounds	40	14	43.5%
All other vehicles and combinations with a manufacturer's gross vehicle weight rating of 10,000 or more pounds	50	14	43.5%

a) Compliance with standards set forth herein shall be determined either by actual road tests conducted on a substantially level dry, smooth, hard-surfaced road that is free from loose material, and with stopping distances measured from the actual instant braking controls when moved and from an initial speed of twenty (20) miles per hour, or by suitable mechanical tests in a testing lane which recreates such same conditions, or by a combination of both methods.

7) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (Ord. 482 (part), 1968)

10.04.100 Horns and warning devices

1) Every motor vehicle when operated upon a street or roadway within the city, shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than two hundred feet (200') or whistle. The

driver of a motor vehicle shall, when reasonable necessary to insure safe operation, give audible warning with his horn, but shall not otherwise use such horn when upon a street or roadway.

2) No vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell except as otherwise permitted in this Ordinance.

3) Any authorized emergency vehicle may be equipped with a siren, whistle or bell, capable of emitting sound audible under normal conditions from a distance of not less than five hundred feet (500') and of a type approved by the Department of Highways of the State, but such siren shall not be used except when such vehicle is operated in response to an emergency call, or in the immediate pursuit of an actual or suspected violator of the law, in which said events, the driver of such vehicle shall sound said siren when reasonable necessary to warn pedestrians and other drivers of the approach thereof. (Ord. 482 (part), 1968).

10.04.110 Mufflers, prevention of noise

1) Every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation, to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bu-pass, or similar device upon a motor vehicle on any of the streets or roadways of the City.

2) The engine and power mechanisms of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes, smoke, or noise. (Ord. 482 (part), 1968).

10.04.120 Mirrors

Every motor vehicle which is so constructed or loaded as to obstruct the driver’s view to the rear thereof from the driver’s position shall be equipped with a mirror so located as to reflect to the driver a view of the highway for a distance of at least two hundred feet (200') to the rear of such vehicle. (Ord. 482 (part), 1968).

10.04.130 Windshields

1) No person shall drive any motor vehicle with any sign, poster, or other nontransparent material upon the front windshield, side wings, or side or rear windows of such vehicles which obstructs the driver’s clear view of the highway or any intersecting highway.

2) The windshield on every motor vehicle shall be equipped with a device for clearing rain, snow, or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

3) Every windshield wiper upon a motor vehicle shall be maintained in good working order.

4) It shall be unlawful for any person to operate a motor vehicle upon any of the streets or roadways of the city when the windshield is so covered with dust, frost, snow or other material to the extent that vision is obscured so as to prevent ready perception of the condition of the road and objects thereon. (Ord. 482 (part), 1968).

10.04.140 Fenders and splash aprons

1) It shall be unlawful for any person to operate or move or any owner to permit to be operated or moved any motor vehicle, motor truck, motor bus, trailer, or semi-trailer, upon or over any public street or roadway of the City without having such vehicle equipped with fenders or covers which may include flaps or splash aprons over and to the rear of wheels, as follows;

    a) On the rear wheels of every motor truck equipped with a body, motor bus, bus trailer, semi-trailer or trailer such fenders or covers shall extend in full width from a point above and forward of the center of the tire over and to the rear of the wheel to a point that is not more than ten inches (10") above the surface of such roadway when such vehicle is empty.

    b) Behind the rear wheels of every motor truck not equipped with a body such fenders or covers shall extend downward in full width from a point not lower than halfway between the center of the wheels and the top of the tires on such wheels to a point that it is not more than ten inches (10") above the surface of such highway when such vehicle is empty.

    c) Behind all wheels of every motor vehicle other than motor truck, motor buses, bus trailers, semi-trailers, or trailers, such fenders or covers shall extend in full width from a point above and forward of the center of the tire over and to the rear of the wheel to a point that is not more than twenty inches (20") above the surface of such roadway.

2) Fenders or covers, as used in this Ordinance shall be deemed to be of sufficient size and construction as to comply with the requirements thereof, if constructed as follows:

    a) When measured on the cross sections of the tread of the wheel or on the combined cross sections of the treads of multiple wheels, such fender or cover extends at least to each side of the width of the tire or of the combined width of the multiple tires, as the case may be.

    b) Such fender or cover is so constructed as to be capable at all times of arresting and deflecting such dirt, mud, water, or other substances as may be picked up and carried by such wheels. (Ord. 482 (part), 1968).

CHAPTER 10.05 OPERATION OF VEHICLES

10.05.010 State license required

It shall be unlawful for any person to operate any motor vehicle upon the streets or roadways of the City which is not currently registered and licensed as required by the Laws of the State, and any license plate on a motor vehicle shall be kept clear and unobstructed. (Ord. 482(part), 1968).

10.05.020 Backing

The driver of a motor vehicle shall not back the same unless such movement can be made with reasonable safety and without interfering with other traffic. (Ord. 482(part), 1968).

10.05.020 Obstruction to driver's view

1) No person shall drive a vehicle when it is so loaded or when there are in the front seat such number of persons exceeding three (3) as to obstruct the view of the driver to the front or sides of the vehicle, or so as to interfere with the driver's control over the driving mechanism of the vehicle.

2) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle. (Ord. 482(part), 1968).

10.05.030 Unqualified drivers

It shall be unlawful for any person not qualified under the Laws of the State to drive or operate a motor vehicle upon the streets or roadways of the City, and it shall be unlawful for the owner of any motor vehicle to permit the same to be driven or operated on the streets or roadways of the said City by any person who is not qualified under the Laws of the State to drive a motor vehicle within said State. (Ord. 482(part), 1968).

10.05.040 Driving on right hand side of roadway

Upon all roadways of sufficient width a vehicle shall be driven upon the right one-half (2) of the roadway except as follows:

1) When overtaking and passing another vehicle in the same direction under the rules governing such movement.

2) When the right one-half (2) of a roadway is closed to traffic or under construction or repair.

3) Upon a roadway divided into three (3) marked lanes for traffic under the rules applicable thereon.

4) Upon a street or roadway designated and sign-posed for one-way traffic.

5) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right hand lane then available for traffic, or as close as practicable to the right hand curb or edge of the street or roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (Ord. 482(part), 1968).

10.05.050 Passing vehicles proceeding in opposite directions

Drivers of vehicles proceeding in opposite directions shall pass each other to the right and upon roadways having width for not more than one (1) line of traffic in each direction, each driver shall give to the other at least one-half (2) of the main traveled portion of the roadway as nearly as possible. (Ord. 482(part), 1968).

10.05.060 Overtaking a vehicle on the left

The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to those limitations, exceptions, and special rules hereinafter stated;

1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.

2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle of audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle. (Ord. 482(part), 1968).

10.05.070 Limitations on overtaking on the left

No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to the right hand side of the roadway before coming within one hundred feet (100') of any vehicle approaching from the opposite direction. (Ord. 482(part), 1968).

10.05.080 Overtaking a vehicle on the right

1) The driver of a vehicle may overtake and pass upon the right of another only under the following conditions:

    a) When the vehicle overtaken is making or about to make a left turn;

    b) Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two (2) or more lines of moving vehicles in each direction.

    c) Upon a one-way street, or upon any roadway on which traffic is restricted to one (1) direction of movement, where the roadway is free from obstructions and of sufficient width for two (2) or more lines of moving vehicles.

2) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. In no event shall such movement be made by driving off the pavement or main-traveled portion of the roadway. (Ord. 482(part), 1968).

10.05.090 Passing school bus

All traffic overtaking or passing a school bus from either direction upon any street or alley in the City, shall stop when the Stop arm is extended and shall remain stopped until the stop arm is retracted or until signaled by the bus driver to proceed. (Ord. 482(part), 1968).

10.05.100 Driving on roadways laned for traffic

Whenever any roadway has been divided into two (2) or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

2) Upon a roadway which is divided into three (3) lanes, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signposted to give notice of such allocation.

3) Official signs may be erected directing slow moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such sign. (Ord. 482(part), 1968).

10.05.110 Following too closely

1) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

2) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle.

3) Motor vehicles being driven upon any roadway outside of a business or residence district, in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. These provisions shall not apply to funeral processions or authorized parades. (Ord. 482(part), 1968).

10.05.120 Driving on divided highways

Whenever any highway has been divided into two (2) roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede

vehicular traffic, every vehicle shall be driven only upon the right hand roadway and no vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection established by public authority. (Ord. 482(part), 1968).

10.05.130 Position and method of turning at intersections

The driver of a vehicle intending to turn at an intersection shall do as follows:

1) Right Turns: both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway.

2) Left Turns on Two-way Roadways: At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right one-half (½) of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (Ord. 482(part), 1968).

10.05.140 Starting parked vehicle

No person shall start a vehicle which is stopped standing or parked unless and until such movement can be made with reasonable safety. (Ord. 482(part), 1968).

10.05.150 Turning movements and required signals

1) No person shall turn a vehicle at an intersection unless the vehicle is in proper position upon the roadway as required herein, or turn a vehicle to enter a private road or driveway or otherwise turn a vehicle from a direct course or move right or left upon a roadway unless and until such movement can be made with reasonable safety. No person shall so turn any vehicle without giving an appropriate signal in the manner hereinafter provided in the event any other traffic any be affected by movement.

2) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet (100') feet traveled by the vehicle before turning.

3) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such a signal.

4) Signals by Hand and Arms or Signal Device: Any stop or turn signal when required herein shall be given either by means of the hand and arm or by signal lamp or lamps or mechanical signal device. (Ord. 482(part), 1968).

10.05.160 Method of giving hand and arm signals

All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

1) Left Turn: Hand and arm extended horizontally.

2) Right Turn: Hand and arm extended upward.

3) Stop or Decrease speed: Hand and arm extended downward. (Ord. 482(part), 1968).

10.05.170 Vehicle approaching or entering intersection

1) The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway.

2) When two (2) vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle to the left shall yield the right-of-way to the vehicle on the right.

3) The right-of-way rules declared in paragraphs (A) and (B) are modified at through highways and otherwise as stated in this Ordinance. (Ord. 482(part), 1968).

10.05.180 Vehicle turning left at intersection

The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard, but said driver, having so yielded and having given a signal when and as required by this Ordinance, may make such left turn and the drivers of all other vehicles approaching the intersection from said opposite direction shall yield the right-of-way to the vehicle making the left turn. (Ord. 482(part), 1968).

10.05.190 Vehicle entering-stop or yield intersection

1) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized herein.

2) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required herein and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another roadway or which is approaching so closely on said roadway as to constitute an immediate hazard, but said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield the right-of-way to the vehicle so proceeding.

3) The driver of a vehicle approaching a yield sign shall, in obedience to such sign, slow down to a speed reasonable for the existing conditions, or shall stop if necessary as provided herein, and shall yield the right-of-way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another roadway

so closely as to constitute an immediate hazard. Said driver having so yielded may proceed and the drivers of all other vehicles approaching the intersection shall yield to the vehicle so proceeding; provided, however, that is such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right-of-way. (Ord. 482(part), 1968).

10.05.200 Vehicle entering-stop or yield intersection with crosswalk

1) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or in the event there is no crosswalk shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.

2) The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection, or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersection roadway where the driver has a view of approaching traffic on the intersecting roadway. (Ord. 482(part), 1968).

10.05.210 Operation of vehicles on approach of authorized emergency vehicles

1) Upon the immediate approach of an authorized emergency vehicle equipped with at least one (1) lighted lamp exhibiting red light visible under normal atmospheric conditions from a distance of five hundred feet (500') to the front of such vehicle other than a police vehicle when operated as an authorized emergency vehicle, and when the driver is giving audible signal by siren, exhaust whistle, or bell, the driver of every other vehicle shall yield the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a Police office.

2) This Section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (Ord. 482(part), 1968).

10.05.220 Following fire apparatus

The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than five hundred feet (500') or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm. (Ord. 482(part), 1968).

10.05.230 Crossing fire hose

No vehicle shall be driven over any unprotected hose of a Fire Department when laid down on any street or a private driveway to be used in any fire or alarm of fire, without the consent of the Fire Department Official in command. (Ord. 482(part), 1968).

10.05.240 Manner of parking

Except as otherwise provided in this Ordinance, every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right hand wheels of such vehicle parallel to and within eighteen inches (18") of the right hand curb, except upon one-way roadways, in which even the vehicle shall be stopped or parked on either side where parking is permitted, with the wheels closest to the curb within eighteen inches (18") of the curb, except where angel parking has been designated. (Ord. 482(part), 1968).

10.05.250 Depositing glass or debris on streets

1) No person shall throw or deposit upon any highway, street or thoroughfare, any glass, bottles, nails, tacks, wire, cans, or any other substance likely to injure any person, animal or vehicle upon such highway, street or thoroughfare.

2) Any person who drops or permits to be dropped or thrown upon any highway, street or thoroughfare, any destructive or injurious material shall immediately remove the same, or cause it to be removed.

3) Any person removing a wrecked or damaged vehicle from a street or roadway shall remove any glass or other injurious substance dropped upon the highway, street or thoroughfare, from such vehicle. (Ord. 482(part), 1968).

CHAPTER 10.06 PARKING METERS

10.06.010 Definitions

Definitions:

1) Parking meter: means and includes any mechanical device installed within or upon the curb or sidewalk area immediately contiguous to a parking meter space which, when the mechanism thereof is set in motion, indicates unexpired parking time for the vehicle parking contiguous thereto.

2) Parking meter space: means an area adjacent to a parking meter upon any street, and shall be designated by a line or other traffic markings, and shall he of sufficient size to permit the parking of only one vehicle, or not more than two motorcycles.

3) Parking meter zone: means those streets or portions of streets within which the parking of vehicles shall be controlled, regulated and inspected with the aid and use of parking meters. (Ord. 818A §13(part), 1999).

10.06.020 Marking of spaces

Parking Meter Spaces to Be Marked. The transportation engineer shall establish and designate parking meter spaces by painted lines upon the surface of the roadway or pavement and/or curbing. (Ord. 818A §13(part), 1999).

10.06.030 Installation

1) The city transportation engineer shall cause to be installed contiguous to each designated parking meter space, on a parking meter so designated that the deposit of a coin or coins will set the mechanism of the meter in motion or permit the mechanism to be set in motion, so that the meter will show the unexpired parking time applicable to the parking meter space contiguous to the meter, and the meter, when such parking time has expired, shall so indicate by a visible sign. Whenever such sign is visible, the meter is in violation.

2) No person shall park any vehicle in any parking meter space, except as otherwise permitted by this Chapter, without immediately depositing in the parking meter contiguous to the space such lawful coin or coins of the United States as are required for such meter and designated by directions on the meter, and when required by the direction on the meter, setting in operation the timing mechanism thereof in accordance with said directions, unless the parking meter indicates ant the time such vehicle is parked that an unexpired portion remains of the period for which a coin or coins has been previously deposited.

3) No person, except as otherwise provided by this Chapter, shall permit any vehicle parked by such person to remain parked in any parking meter space during any time when the parking meter contiguous to such space indicates that no portion remains of the period for which the last previous coin or coins has been deposited, or beyond the time limited for parking as designated on the meter. (Ord. 818A §14, 1999).

10.06.040 Spaces and time limits

The City Transportation Engineer shall establish and designate parking meter spaces, including restricted meter spaces, within the parking meter zone, and shall provide for maximum parking times for all meters. (Ord. 818A §15, 1999).

10.06.050 Rates

Parking meter rates shall not exceed twenty five cents ($0.25) per one-half (1/2) hour of parking within any parking meter zone, unless increased by resolution of the City Council of the City of Rexburg. (Ord. 818A §16, 1999).

10.06.060 Restricted spaces

No person shall park or permit any vehicle to remain parked in a restricted parking meter space during a restricted period, except those persons included within the class for whose benefit the restriction is imposed. (Ord. 818A §17, 1999).

10.06.070 Overtime parking prohibited

1) No person shall park or permit any vehicle to remain parked in any parking meter space adjacent to a meter for a continuous period longer than that designated on the meter, or at any time when the meter violation indicator is shown.

2) No person shall place coins in any expired or unexpired parking meter for the purpose of showing or extending unexpired time with the intent of permitting a vehicle to remain parked at such meter, with unexpired time showing for a continuous period longer than that designated on the meter. (Ord. 818A §18, 1999).

10.06.080 No charge exceptions

1) Parking meter spaces may be used without charge on all days of the week between six o'clock (6:00) P.M. and eight o'clock (8:00) A.M., and during all hours on Saturdays and on Sundays and holidays as enumerated in subsection B of this Section. With regard to parking at parking meters on Saturdays, when signs or traffic markings are erected or placed by the direction of the City Transportation Engineer limiting the duration of such parking, no person shall park a vehicle or permit such vehicle to remain parked for longer than the time specified, between the hours shown upon any street, parts of a street, or roadway.

2) The word "holiday" means:

   a) Every Sunday,

   b) The first day of January, called New Year's Day,

   c) The third Monday of January, called Martin Luther King's Birthday,

   d) The third Monday of February, called Washington's Birthday,

   e) The last Monday in May, called Memorial Day,

   f) The fourth day of July, called Independence Day,

   g) The twenty fourth day of July, called Pioneer Day,

   h) The first Monday in September, called Labor Day,

   i) The second Monday of October, called Columbus Day,

   j) The eleventh day of November, called Veterans Day,

   k) The fourth Thursday of November, called Thanksgiving Day, and

   l) The twenty fifth day of December, called Christmas

3) When February 12, July 4, July 24, November 11 or December 25 falls on a Sunday, the following Monday shall be considered the legal holiday, and no other day shall be considered a holiday. (Ord. 818A §19, 1999).

10.06.090 Special use conditions and fees

Permission to park in parking meter spaces without the deposit of a coin may be granted by:

1) The City Transportation Engineer or the Engineers designee upon application being made therefore in writing upon the following conditions:

   a) A showing of a substantial need to temporarily close off the meters involved to the public use for a stated duration of time,

   b) The placing of authorized bags over the meters involved, and

   c) The payment daily in advance to the City Treasurer of ten dollars ($10.00) per meter for the first day, or part thereof, and five dollars ($5.00) per meter per day, or part thereof, thereafter for a maximum of fifteen *(*15*)* days.

2) The Mayor or the Mayor's authorized designee, for no more than a total often (10) days in any one calendar year and upon three (3) working days' advance notice to the Council by special order setting forth the days, hours and/or affected area or areas of meter or meters, upon the following conditions:

   a) When the waiver is for a limited period to foster area business promotion, or to commemorate public holidays, parades, gatherings or events,

   b) When a substantial public interest is furthered by the waiver, or

   c) As an experiment to gather data on the effects of parking meters and the economy of the surrounding areas. (Ord. 818A §20, 1999).

10.06.100 Use of unexpired time

The driver of a vehicle entering a parking space at a time when the meter for such space shows unexpired legal parking time may permit such vehicle to remain parked in such space for such time as the meter indicates legal parking time remaining, and may, by depositing the proper coin or coins remain parked in such space for the amount of time allowed therein subject to the limitations provided in Section 17 of this Chapter, or its successor. (Ord. 818A §21, 1999).

10.06.110 Coins and keys – Tampering prohibited

1) The insertion of any lawful coin or coins in any meter shall not entitle any person to park in such parking meter space during the time parking is prohibited in such parking meter space.

2) It is unlawful to deposit in any parking meter anything other than lawful coin of the United States, or any coin that is bent, cut, torn, battered or otherwise misshapen. No unauthorized person shall remove, deface, tamper with, open, break, destroy or damage any parking meter.

No person shall willfully manipulate any parking meter in such manner that the indicator will not operate or continue to show the correct amount of unexpired time before a violation.

3) It is unlawful for any person not authorized by the City of Rexburg to have in such person's possession or on his or her person any key which will open the coin box of any parking meter in the streets of the City, or on any public parking area operated and maintained by the City.

4) It is unlawful for any person to duplicate or reproduce in any manner any key which will open the coin box of any parking meter in the streets of the City, or on any public parking area operated and maintained by the City; provided, however, that such keys may be duplicated or reproduced for the use of the City of Rexburg upon written authorization from the Mayor to do so. (Ord. 818A §22, 1999).

10.06.120 Parking in more than one parking meter space

No Person shall park or permit any vehicle to remain parked in more than one parking meter space at a time. (Ord. 818A §23, 1999).

CHAPTER 10.07 TRAFFIC CONTROL DEVICES

10.07.010 Adoption of uniform system

The City hereby adopts the manual and specifications for a uniform system of traffic control devices consistent with the provisions of this Ordinance promulgated by the Department of Highways of the State in conformity with the current system approved by the American Association of State Highway Officials. (Ord. 482(part), 1968).

10.07.020 Placement of signs and signals

It shall be the duty of the Police Department to place and maintain such traffic control devices conforming to said manual and specifications upon all streets and roadways that the Mayor and Council shall, by resolution, determine to be necessary to carry out the provisions of this Ordinance, and to regulate, warn and guide traffic. (Ord. 482(part), 1968).

10.07.030 Obedience to traffic control devices

The driver of any vehicle shall obey the instructions of any official traffic control device placed in accordance with the provisions of this Ordinance, unless otherwise directed by a traffic or police officer, subject to the exemptions granted the driver of an authorized emergency vehicle by this Ordinance. No provisions of this Ordinance for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. (Ord. 482(part), 1968).

10.07.040 Traffic control signal legend

Whenever traffic is controlled by traffic control signals exhibiting the words “Go", “Caution” or “Stop”, or exhibiting different colored lights successively one (1) at a time, or with arrows, the

following colors only shall be used and said terms and lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

1. Green Alone or “go”:

    a) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or in the adjacent crosswalk at the time such signal is exhibited.

    b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

2. Yellow alone or “Caution” when shown following the green or “Go” signal:

    a) Vehicular traffic facing the signal is thereby warned that the red or “Stop” signal will be exhibited immediately thereafter and such vehicular traffic shall not enter or be crossing the intersection when the red or "Stop" signal is exhibited.

    b) Pedestrians facing such signal are thereby advised that there is insufficient time to cross the roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

3. Red alone or “Stop”:

    a) Vehicular traffic facing the signal shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until green or “Go” is shown alone, except that after coming to a stop, vehicle may make a turn to the right when no other traffic is thereby affected.

    b) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

4. In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this Ordinance shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal. (Ord. 482(part), 1968).

10.07.050 Pedestrian control signals

Whenever special pedestrian control signals exhibiting the words “Walk” or “Wait” or “Don't Walk” are in place, such signals shall indicate as follows:

1) Walk: Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.

2) Wait or Don't Walk: No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety island while the wait signal is showing. (Ord. 482(part), 1968).

10.07.060 Flashing signals

Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic s follows:

1) Flashing red (Stop Signal): When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or, if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

2) Flashing yellow (Caution signal): When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution. (Ord. 482(part), 1968).

10.07.070 Display of unauthorized signals or signs

1) No person shall place, maintain or display upon or in view of any street or roadway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad signal or sign.

2) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the Police Department is hereby empowered to remove the same or cause it to be removed, without notice. (Ord. 482(part), 1968).

10.07.080 Interference with official traffic control devices

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control sign or device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof. (Ord. 482(part), 1968).

CHAPTER 10.08 SPEED REGULATIONS*

*Note to Chapter 10.08: For statutory provisions concerning speed limits, see Idaho Code §49-701 et seq.; for provisions authorizing local authorities to change certain speed limits, see Idaho Code §49-703.

10.08.010 Basic rule

No person shall drive a vehicle within the corporate limits of the City of Rexburg, Idaho, at a speed greater than is reasonable and prudent under the conditions and having regard to the actual

and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway, in compliance with legal requirements, and it shall be the duty of all persons to use due care. (Ord. 482(part), 1968).

10.08.020 Prima facie limits

Where no special hazard exists that required lower speed for compliance with regulations adopted in Chapter 10.01, the speed of any vehicle not in excess of the limits so specified or established as authorized in Chapter 10.01, shall be lawful, but any speed in excess of the limits specified in this section, or established as authorized in Chapter 10.01, shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful:

1) Twenty--five miles per hour on all streets and roadways except where a different speed is posted in accordance with the provisions of this chapter;

2) Twenty miles per hour in all marked school zones within the city. (Ord. 482(part), 1968).

10.08.030 When reduced speed required

The driver of every vehicle shall, consistent with the foregoing provisions, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when driving over any narrow or winding street or roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. (Ord. 482(part), 1968).

10.08.040 Establishment of speed zones

Whenever the Police Department and the Mayor and Council shall determine upon the basis of an engineering and traffic investigation that any prima facie speed hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street or roadway system, said Police Department and the Mayor and Council may determine and declare by resolution a reasonable and safe prima facie speed limit thereat, which, when appropriate signs giving notice thereof are erected, shall be effective at all times thereafter. (Ord. 482(part), 1968).

10.08.050 Minimum speed regulations

1) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

2) Whenever the Police Department and the Mayor and Council determine on the basis of an engineering and traffic investigation that slow speeds on any part of a street consistently impede the normal and reasonable movement of traffic, the Police Department and the mayor and Council may determine and declare a minimum speed limit below which no person shall drive a vehicle, except when necessary for safe operation or in compliance with the law, which, when appropriate signs giving notice thereof are erected, shall be effective at all times or at such times as may be determined, at such place or part of the streets or highway.

3) Police officers are hereby authorized to enforce this provision by directions to drivers, and in the event of apparent willful disobedience to this provision and refusal to comply with the directions of an officer in accordance therewith, the continued slow operation of a motor vehicle by a driver shall be a misdemeanor. (Ord. 482(part), 1968).

10.08.060 Charging violations of speed regulations

1) In every charge of violation of any speed regulation in this Ordinance to complaint or citation to appear shall specify the speed at which the defendant is alleged to have driven, also the prima facie speed applicable at the location where the offense is claimed to have taken place.

2) The provisions of this Ordinance declaring prima facie speed limitations shall not be construed to relieve the plaintiff in any civil action from the burden of proving negligence on the part of the defendant as the proximate cause of an accident. (Ord. 482(part), 1968).

CHAPTER 10.09 STOPPING, STANDING AND PARKING

10.09.010 Application of chapter provisions

The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times, or at those times herein specified, or as indicated on official signs, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic-control device. (Ord. 818A §1, 1999).

10.09.020 Regulations not exclusive

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times. (Ord. 818A §2, 1999).

10.09.030 Registration of vehicle plates

Every vehicle at all times while being driven, stopped or parked upon the streets or alleys of this city, shall (1) be registered in the name of the owner thereof in accordance with the laws of the state, unless such vehicle is not required by the laws of Idaho to he registered in this state; (2) display in proper position two valid, unexpired registration plates, one on the front and one on the rear of such vehicle; and (3) when required, current validation or indicia of registration attached to the rear plate and in a manner complying with the laws of the state of Idaho, and free from defacement, mutilation, grease and other obscuring matters, so as to be plainly visible and legible at all times. However, if such vehicle is not required to he registered in this state, and the indicia of registration issued by another state, territory, possession or district of the United States, or of a foreign country, substantially complies with the provisions hereof, such registration shall be considered as compliance with this code. (Ord. 818A §3, 1999).

10.09.040 Continuous movement required

When signs or traffic markings are erected or placed by the direction of the city, no person shall stop, stand or park a vehicle or permit said vehicle to remain standing at any time, with the exception of certain hours specified, upon any street, parts of a street, or roadway. (Ord. 818A §4, 1999).

10.09.050 Parking signs required

When by this code or any other ordinance of the city, and except for parking meter zones, any parking time limit is imposed or parking is prohibited on designated streets or parts of streets the city transportation engineer shall erect or place and maintain appropriate signs or traffic markings giving notice thereof and no such regulations shall be effective unless said signs or traffic markings are erected and in place at the time of any alleged violation. (Ord. 818A §5, 1999).

10.09.060 Procedure for leaving vehicle unattended

No driver or person in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key nor, when such motor vehicle is standing upon any perceptible grade, without effectively setting the brakes thereon and turning the front wheels to the curb or side of the street. (Ord. 818A §6, 1999).

10.09.070 Lights on parked vehicles

1) Whenever a vehicle is lawfully parked upon any street within a business or residence district, no lights need be displayed upon such parked vehicle.

2) Whenever a vehicle is parked upon a street outside of a business or residence district during the hours between one-half hour after sunset and one-half hour before sunrise, such vehicle shall be equipped with one or more lamps which shall exhibit a white light on the roadway side visible from a distance of five hundred feet to the front of the vehicle and a red light visible from a distance of five hundred feet to the rear.

3) Any lighted headlamp upon a parked vehicle shall be depressed or dimmed. (Ord. 818A §7, 1999).

10.09.080 Opposite traffic – Parallel

No person shall stand or park a vehicle in a roadway provided with curb other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway, except as otherwise provided in this chapter.
(Ord. 818A §8, 1999).

10.09.090 Angle or parallel parking – Signs or markings

Where signs or traffic markings have been placed by the city transportation engineer after a comprehensive study, no person shall park or stand **a** vehicle other than between such traffic markings or at any angle to the curb or edge of the roadway other than indicated by such sign or

traffic marking. (Ord. 818A §9, 1999).

10.09.100 Disabled parking – Public property

1) Handicapped Parking at Meters and in Restricted Areas

   a) A handicapped person whose automobile has affixed thereto, as provided by law, the handicapped license plate or a transferable motor vehicle identification card issued by the state of Idaho, shall be entitled to park at any parking meter and in the following identified restricted parking areas without charge, notwithstanding any other state or municipal parking restriction: Freight loading zones, passenger loading zones and time-limited parking zones.

   b) It is unlawful for such handicapped person to:

      i) Park for longer than two hours at all meters and restricted parking areas where the maximum metered or designated time is less than two hours;

      ii) Park for longer than the maximum metered or designated time at meters and restricted parking areas where the maximum metered or designated time is longer than two hours.

2) Designated 1-handicapped Parking. The city transportation engineer is hereby authorized, at his/her discretion to reserve by appropriate signing, various public areas or property for handicapped parking. It is unlawful for:

   a) Any handicapped person to park longer than the time shown on the sign designating the area as “handicapped parking, or

   b) Any vehicle to be parked in an area designated as handicapped parking, unless such vehicle has displayed upon it the handicapped parking plate or transferable identification card issued by the state.

3) Unlawful Use of Handicapped License Plate. It is unlawful for any person using a vehicle with a handicapped license plate or transferable motor vehicle identification card who is not handicapped to use handicapped parking.

4) Restricted Areas Not Authorized for Special Handicapped Parking. Nothing herein shall be construed to permit parking by any individual, contrary to or as an exception to the limited purpose of the following designated areas:

   a) Any area where official signs or traffic markings absolutely prohibit stopping, standing or parking;

   b) Areas Reserved for Emergency Use. “Emergency use,” as used herein, means and shall include, but not be limited to, those areas designated by red curb marking, also known as “red zones” designated as ambulance zones; fire hydrant zones; fire lanes, whether on

public or private property; or any other designated area of the city posted as restricted for emergency vehicles or emergency use;

c) On a sidewalk area;

d) In front or within five feet of a private driveway;

e) Within five feet of a fire hydrant, as measured in both directions along the street or highway curb line, from a line extending from the center of the hydrant to the curb line at its nearest point;

f) Within twenty feet of a crosswalk at an intersection;

g) Within thirty feet upon the approach to any flashing beacon or traffic-control device located at the side of a roadway;

h) Between a safety zone and the adjacent curb, or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless authorized signs or markings indicate a different length;

i) Within fifty feet of the nearest rail of a railroad crossing;

j) Within twenty feet of the driveway entrance to any fire station, and on the side of a street opposite the entrance when properly signposted;

k) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct or be hazardous to traffic;

l) Upon any bridge or other elevated structure upon a street, or within a street tunnel or underpass;

m) At any place in any public park, playground or grounds of any public building other than on the roads or parking lots provided for public parking in accordance with provisions of any officially installed signs;

n) On any footpath in any park or playground; or

o) Taxi and bus stands or stops. (Ord. 818A §10, 1999).

10.09.110 Disabled parking violation enforcements

1) No vehicle except those displaying a disabled license plate or transferable motor vehicle identification card issued by the state shall park in any parking spot designated for the parking of disabled persons. This restriction shall apply to and be enforceable upon all property where parking is open to the general public, whether parking is provided to the general public for free or for a fee.

2) Any lay enforcement agency authorized to enforce parking laws and regulations in the City of Rexburg may appoint volunteers to act as its agents to issue parking citations for

violations of this section or any other city law or regulation which prescribes a penalty for illegal parking at any parking spot properly designated for the exclusive use of disabled persons. A parking citation issued by a volunteer properly appointed under this section has the same force and effect as a citation issued for the same offense by a peace officer or parking enforcement officer authorized to enforce parking laws and regulations in the City of Rexburg.

3) A volunteer appointed under this section must be at least eighteen years of age. The law enforcement agency appointing a volunteer under authority of this section may establish any other qualification or criteria for the appointment of such volunteer.

4) A volunteer appointed under this section may not issue a parking citation until the volunteer has received training regarding the proper issuance of parking citations from the appointing law enforcement agency. (Ord. 818A §11, 1999).

10.09.120 Disabled parking – Out-of-state vehicles

The parking privileges granted by Sections 10 and ii herein, or their successors, also apply to vehicles displaying a distinctive handicapped license plate or transferable identification card issued by another state, if displayed on a vehicle utilized by a handicapped person. (Ord. 818A §12, 1999).

10.09.130 Airport parking – signs and markings

No person shall park a vehicle at the airport other than in a manner and at locations indicated by posted traffic signs and markings. (Ord. 818A §24, 1999).

10.09.140 City and County employee parking – Areas designated

Certain areas of the City have been designated for parking by employees and officials of the City of Rexburg. (Ord. 818A §25, 1999).

10.09.150 Residential parking lots owned by the city

1) No person, on the premises of any residential parking lot owned by the City where a sign or signs are posted designating such residential parking lot as a parking lot of the City of Rexburg, shall:

   a) Park any vehicle continuously in excess of seventy two (72) hours,

   b) Park any boat, trailer or motor home,

   c) Park any vehicle over eighteen feet (18’) in length or eight feet (8’) wide,

   d) Abandon any vehicle,

   e) Make repairs on any vehicle; or

   f) Park any vehicle thereon which does not bear a valid license plate and current Idaho inspection sticker.

2) For the purpose of this Section, the term “residential parking lot owned by the City” means any area where vehicles may he left unattended upon any property the City may have an ownership interest in, and which has a sign or signs thereon stating that such area is a “Residential Parking Lot of the City of Rexburg”.

3) Any vehicle found in violation of any of the foregoing prohibitions upon any residential parking lots owned by the City is hereby declared to be a nuisance, and may be summarily abated by removing any such vehicle by, or under the directions of, or at the request of a police officer or other officer charged with enforcing the parking laws of the City to a place of storage within the City by means of towing or otherwise, as provided in this Ordinance, and the provisions of said Ordinance shall govern the disposition of any vehicle so impounded. (Ord. 818A §26, 1999).

10.09.160 No stopping or parking – Color markings and signs

1) The City Transportation Engineer is authorized, subject to provisions and limitations of this Code, and after a comprehensive study, to place and when required herein shall place and maintain appropriate signs or traffic markings to indicate standing or parking regulations, and such traffic markings shall designate the zones and shall have the meanings herein set forth.

   a) Red: Red means no stopping, standing or parking at any time.

   b) Yellow: Yellow means no stopping, standing or parking except as designated by appropriate signs or traffic markings.

2) When appropriate signs or traffic curb markings have been erected or placed according to this Section, no person shall stop, stand or park a vehicle in any zone contrary to the provisions of this Section. (Ord. 818A §27, 1999).

10.09.170 Public carrier and bus stands

The City Transportation Engineer is authorized and required to establish bus and coach stops and stands for passenger common carrier vehicles other than taxicabs on such public streets in such places and in such numbers as the City Transportation Engineer shall determine to he of the greatest benefit and convenience to the public, and every such bus and coach stop and stand for common carrier vehicles shall be designated by appropriate signs or markings installed by the City Transportation Engineer. (Ord. 818A §30, 1999).

10.09.180 Buses and taxicabs – Parking restrictions

The driver of a bus or taxicab shall not park upon any street upon which parking is prohibited, restricted, limited as to time or registered by parking meters, at any place other than at a bus stop or taxicab stand, respectively, except that this provision shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers. (Ord. 818A §31, 1999).

10.09.190 Buses and taxicabs – Stand use restrictions

No person shall stand, stop or park any vehicle other than a licensed bus or coach in a bus stop, and then only for the express purpose of and while actually engaged in the loading or unloading of passengers, nor shall any person stop, stand or park any vehicle other than a taxicab in a taxi stand, when such stand or stop has been officially designated and appropriately signed and marked. (Ord. 818A §32, 1999).

10.09.200 Taxicab stands – Establishment and signs

The city transportation engineer is hereby authorized and required to establish taxicab stands on such public streets in such places and in such manner as the city transportation engineer shall determine to be of the greatest benefit and convenience to the public and every such taxicab stand shall be designated by appropriate sign or markings installed by the city transportation engineer. (Ord. 818A §33, 1999).

10.09.210 Restricted parking zones

No person shall stop, stand or park a vehicle for any purpose or length of time in any restricted parking zone other than for the purpose to which parking in such zone is restricted, except that a driver of a passenger vehicle may stop temporarily in such zone for the purpose of and while actually engaged in loading or unloading of passengers when such stopping does not interfere with any vehicle which is waiting to enter or about to enter the zone for the purpose of parking in accordance with the purposes to which parking is restricted and the driver must remain in the car. (Ord. 818A §34, 1999).

10.09.220 Parking in alleys

No person shall park a vehicle within an alley except during the necessary and expeditious loading and unloading of merchandise, and no person shall stop, stand or park a vehicle within an alley in such a position as to block the driveway entrance or any abutting property, or interfere with the free movement of traffic through the alley. (Ord. 818A §35, 1999).

10.09.230 One-way roadway restrictions

In the event a street includes two separate roadways and traffic is restricted to one direction upon each of such roadways, no person shall stand or park a vehicle upon the left side of either of such roadways. (Ord. 818A §36, 1999).

10.09.240 Double parking, standing or stopping

No person shall park, stand or stop a vehicle upon the roadway side of another vehicle which is parked, standing or stopped except while actually engaged in loading or unloading passengers, or in compliance with directions of a police officer or traffic-control device, or when necessary to avoid other traffic. (Ord. 818A §37, 1999).

10.09.250 Stopping or parking – Roadways without curb

1) No person shall stop, park or leave standing any vehicle, whether attended or unattended, upon any roadway constructed without **a** curb, when it is practical to stop, park or so leave

such vehicle off such roadway. In every event, such parked vehicle shall be parked in the direction of lawful traffic movement with an unobstructed width of the roadway opposite the standing vehicle left for the free passage of other vehicles, and a clear view of such stopped vehicles shall be available.

2) This section shall not apply to the driver of any vehicle which is disabled while on the main traveled portion of a street in such manner and to such an extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position. (Ord. 818A §38, 1999).

10.09.260 Stopping or parking – Prohibited in certain areas

1) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic-control device, in any of the following places:

   a) On a sidewalk area,

   b) In front or within five feet of a private driveway,

   c) Within an intersection,

   d) Within five feet of fire hydrant, as measured in both directions along the street or highway curb line from the line extending from the center of the hydrant to the curb line at its nearest point,

   e) On a crosswalk,

   f) Within twenty feet of a crosswalk at an intersection,

   g) Within thirty feet upon the approach of any flashing beacon or traffic-control device located at the side of a roadway,

   h) Between a safety zone and the adjacent curb, or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless authorized signs or markings indicate a different length,

   i) Within fifty feet of the nearest rail of a railroad crossing,

   j) Within twenty feet of the driveway entrance to any fire station, and on the side of a street opposite the entrance when properly signposted,

   k) Alongside or opposite any street excavation or obstruction, when stopping, standing or parking would obstruct or he hazardous to traffic,

   l) Upon any bridge or other elevated structure upon a street, or within a street tunnel or underpass,

m) At any place where official signs or traffic markings prohibit stopping, standing or parking,

n) At any place in any public park, playground or grounds of any public building other than on the roads or parking lots provided for public parking and then only in accordance with provisions of any officially installed signs, such signs to be installed by the city transportation engineer, pursuant to the authority granted in this Ordinance,

o) On any footpath in any park or playground,

p) Within a fire lane as designated and marked in accordance with the provisions of the relevant Rexburg City Ordinance, or its successor, whether on public or private property; or,

q) On a median or island, or on any dividing section.

2) No person shall move a vehicle under such person's control into any such prohibited area, or upon any area not designated for vehicular travel or parking. (Ord. 818A §39, 1999).

10.09.270 Time-limited parking on certain streets

1) Purpose of Section. The city council finds that restricted-time parking regulations are designed to require movement of vehicles from designated street parking locations to enable as many members of the public as possible to have access to prime street parking locations. Some members of the public attempt to avoid purposes of restricted time parking by moving their vehicles only enough to cover any markings placed by parking enforcement personnel or by moving their vehicles only to return within a few minutes to the same or approximately the same parking spot. It is necessary to provide fair and equal access to limited public resources and assets such as prime parking locations.

2) When signs or traffic markings are erected or placed by the direction of the city transportation engineer, no person shall park a vehicle or permit such vehicle to remain parked for longer than the time specified, between the hours shown upon any street, parts of a street, or roadway.

3) It is unlawful for any person to:

a) Park a vehicle on the same time-restricted parking block face for longer than the posted time limitation, or having left a parking spot located on a time- restricted parking face, reenter the parking anywhere along the same street block face within the same length of time as the posted time limitation plus thirty minutes immediately following the vacation of the place of initial parking; or

b) Remove a temporary mark placed by an enforcement officer except that which may naturally occur as a result of driving the vehicle.

4) Definitions:

   a) Block face: means the side of the street where the vehicle was parked between two intersecting streets. An alley shall not be considered a street.

   b) Street and alley: have the meanings set forth the relevant Idaho State Code, or their successor provisions.

5) Civil Penalty-Continuing Violation. Violation of this section shall constitute a civil violation. It shall be a separate offense for each violation of the posted time limitations.

6) Every driver about to enter a parking space being vacated shall stop his or her vehicle in the actual process of vacating the parking space, and having so waited shall have prior right to the parking space over all other drivers.

7) No driver shall stop his or her vehicle ahead of a parking space being vacated and attempt to interfere with a driver who has waited properly to the rear of a parking space being vacated. (Ord. 818A §40, 1999).

10.09.280 Streets – Parking prohibited at all times

When signs or traffic markings are erected or in place on any street, parts of **a** street, or roadway, giving notice thereof, no person shall park a vehicle or permit such vehicle to remain standing at any time. (Ord. 818A §41, 1999).

10.09.290 Prohibited parking for restricted vehicles

1) No person shall park, or allow to remain standing, any restricted vehicle upon any street, part of a street or roadway of the City of Rexburg, except: (a) to load or unload the vehicle as long as the loading or unloading is done expeditiously; or (b) upon restricted vehicle routes and truck routes as defined by the transportation engineer and in obedience to traffic signs and markings upon said routes.

2) No person shall park, or allow to remain standing, any restricted vehicle upon any privately owned property within the corporate limits of Rexburg, if that property is zoned LDR, LDR-1, MDR, HDR, or CBD, if the access to the property is accessible only by the use of public streets or roadways where the use of such roadway by such vehicle would be unlawful.

3) Subsection B shall not apply to vehicles parked upon privately owned property which has a valid nonconforming or conditional use permit that allows restricted vehicles upon such property. (Ord. 818A §42, 1999).

10.09.300 Streets – Parking prohibited during certain hours

When signs or traffic markings are erected or placed by direction of the city, no person shall park a vehicle or permit said vehicle to remain standing during the hours and days specified by such signs and markings upon any street, parts of a street, or roadway. (Ord. 818A §43, 1999).

10.09.310 Parking prohibited – Locations

No person shall park a vehicle:

1) On any public street or alley where the width of the roadway is less than twenty feet;

2) On the south or east side of any public street or alley where the width of the roadway is over twenty feet, but less than thirty feet, unless otherwise directed by traffic- control devices; or

3) Upon any private driveway within a traffic district where the width of the driveway is less than twenty feet. (Ord. 818A §44, 1999).

10.09.320 Obstructing traffic by parking prohibited

No person shall park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic. (Ord. 818A §45, 1999).

10.09.330 Parking on sidewalk area prohibited

No person shall leave or cause to be left, or parked, any vehicle upon any portion of a street or highway between the curb lines or the lateral lines of a roadway and the adjacent property lines. (Ord. 818A §46, 1999).

10.09.340 Parking for certain purposes prohibited

No person shall park or operate a vehicle upon any roadway for the principal purpose of:

1) Displaying such vehicle for sale;

2) Greasing or repairing such vehicle, except repairs necessitated by an emergency;

3) Displaying advertising; or

4) The sale of foodstuffs or other merchandise in any business district. (Ord. 818A §47, 1999).

10.09.350 Parking violation – Owner's responsibility

Whenever any vehicle shall have been parked in violation of any of the provisions of any ordinance prohibiting or restricting parking, the person in whose name such vehicle is registered shall be prima facie responsible for such violation and subject to the penalty therefore. (Ord. 818A §50, 1999).

10.09.360 Moving illegally parked vehicles – Police authority

Whenever any police officer finds a vehicle parked or standing upon a street and such vehicle is creating a danger to persons or property, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the main-traveled part of such street. (Ord. 818A §51, 1999).

10.09.370 Unauthorized use of Streets, parking lots and other areas – Penalties

1) Any person engaging in the unauthorized use of streets, parking lots or other areas as provided under this Chapter, within the City, shall be liable for a civil penalty. Any penalty assessed in subsection B of this Section may be in addition to such other penalties as may be provided in this Ordinance.

    a) "Unauthorized use of streets" means a violation of any restriction or prohibition contained in this Chapter or its successor.

2) Civil penalties shall be imposed as set forth on the Notice of Parking Violation, as may from time to time be amended by resolution other City Council of the City of Rexburg

3) The civil penalties specified in subsection B of this Section shall he subject to reductions as set forth on the Notice specified in subsection B of this Section if the penalties are paid within the designated number of days from the receipt of notice.

4) As used in this Section, "receipt of notice" means the affixing of a notice to the vehicle alleged to have been employed in such unauthorized use, or by delivery of such notice to the owner or driver thereof. (Ord. 818A §52, 1999).

10.09.380 Unauthorized use of streets – Strict liability of owner

Whenever any vehicle shall have been employed in the unauthorized use of streets, the person in whose name such vehicle is registered shall be strictly liable for such unauthorized use and the penalty therefore. (Ord. 818A §53, 1999).

10.09.390 Unauthorized use of streets – Appeal procedures

1) The Mayor shall appoint such hearing officers as he or she deems appropriate to consider matters relating to the unauthorized use of streets.

2) Any person having received notice of such unauthorized use, or the owner of any vehicle employed in such use, may appear before a hearing officer and present and contest such alleged unauthorized use.

3) The burden to prove any defense shall be upon the person raising such defense.

4) If the hearing officer finds that no unauthorized use occurred or an unauthorized use occurred but one or more of the defenses set forth in this Section is applicable, the hearing officer may dismiss the notice of unauthorized use and release the owner or driver from liability there under. Such defenses are.

    a) At the time of the receipt of the notice, possession of the subject vehicle had been acquired in violation of the criminal laws of the State;

    b) If the notice of unauthorized use alleges a violation of any ordinance pertaining to a parking meter, such meter was mechanically malfunctioning to the extent that its reliability is questionable;

c) Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property.

5) If the hearing officer finds that an unauthorized use occurred but one or more of the defenses set forth in this Section is applicable, the hearing officer may reduce the penalty associated therewith, but in no event shall such penalty be reduced below the sum of three dollars ($3.00). Such defenses are.

a) At the time of receipt of the notice, possession of the subject vehicle had been acquired pursuant to the written lease agreement or similar written agreement;

b) The subject vehicle was mechanically incapable of being moved from such location; provided, however, such defense shall not apply to any vehicle which remains at such location in excess of six (6) hours;

c) Any markings, signs or other indicia of parking use regulation were not clearly visible or comprehensible;

d) Such other mitigating circumstances as may be approved by the City Law Department.

6) If the hearing officer finds that an unauthorized use occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the City, enter into an agreement for the timely or periodic payment of the applicable penalty.

7) If the penalty imposed pursuant to this Chapter remains unsatisfied after forty (40) days from the receipt of notice, or ten (10) clays from such date as may have been agreed to by the hearing officer, the City may use such lawful means as are available to collect such penalty, including costs and attorney fees. (Ord. 818A §54, 1999).

10.09.400 Severability

The provisions of this Chapter are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutional or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this ordinance or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the ordinance or part thereof is held inapplicable had been specifically exempt there from. (Ord. 818A §57, 1999).

ARTICLE I RESTRICTIONS GENERALLY

10.09.410 Parking – Alley restrictions

It is unlawful for any person to park a motor vehicle in any alley within the city limits, except for the actual time required for loading or unloading such vehicle and the person parking such

vehicle must leave a clearance of at least ten feet in width in such alley for other traffic. (Ord. 482 (part), 1968).

10.09.420 Parking – Trucks prohibited in residential sections

It is unlawful for any person to park any motor vehicle larger than what is commonly known as a pickup truck on the streets in any residential district of the city, except for the purpose of loading or unloading such vehicle in the most expeditious manner having due regard for the rights of others and traffic on the streets. (Ord. 482(part), 1968).

No person shall park or allow the parking of any automobile, van, pickup truck, trailer, motorcycle or other motor vehicle in any front yard located in a residential zone except in a designated driveway. (Ord. 926 §3.4.130(2), 2005).

10.09.430 Repairing vehicles on street restrictions

It is unlawful for any person to use any street or portion thereof within the city for the purpose of repairing any vehicle except for temporary emergency repairs. (Ord. 482(part), 1968).

10.09.440 Abandoned vehicles

It is unlawful for any person to store or abandon any vehicle upon any of the streets of the city. Any vehicle left standing or parked for a period of forty-eight or more consecutive hours in the same area shall be deemed to have been abandoned, and the officers of the police department shall cause the same to be removed and impounded, in such place as the department shall determine, for safekeeping. (Ord. 482(part), 1968).

10.09.450 Parking – Restrictions – Signs required

When signs are erected in each block giving notice thereof, it is unlawful for any person to park a vehicle between the hours, on the days, and on the streets specified in said notice. (Ord. 482(part), 1968).

10.09.460 Vehicles parked in violation of Section 10.09.450 – Removal and impoundment authorized

The police department is authorized to remove from the street and impound any vehicle parked in violation of the provisions of Section 10.09.440 above. (Ord. 482(part), 1968).

10.09.470 Impoundment fees – Payment prerequisite to release of vehicle

The owner of a vehicle which has been impounded under the provisions of this chapter shall pay the cost of impoundment plus one dollar per day after the first day to the city clerk to cover the cost and expense of impounding, towing and storage before such vehicle shall be released. (Ord. 648 §1, 1982: Ord. 482(part), 1968).

10.09.480 No parking on portion of North Second East Street

1) It is unlawful at any time to park vehicles, motor or otherwise, on either side of North Second East Street from Ricks Avenue to the south side of the Teton River Bridge across said North Second East Street.

2) It is a misdemeanor for any person, firm or corporation to violate the provisions of this section.

3) Any person, firm or corporation convicted of a violation of the provisions of this chapter shall be punished by a fine of not more than three hundred dollars or by imprisonment in the city-county jail not exceeding six months, or both such fine and imprisonment. (Ord. 620 §§1--3, 1980).

ARTICLE II PARKING AND LOADING ZONES

10.09.490 Operating time defined

"Operating time" is defined as that time when parking within parking zones and loading zones is regulated, and is the time between eight a.m. and six p.m. of every day; provided, however, "operating time" shall not include any Sunday, New Year's Day, Washington's Birthday, Decoration Day, Columbus Day, Veteran's Day, Thanksgiving Day, Christmas or any day appointed by the President of the United States, or by the Governor of Idaho. (Ord. 537 §6, 1973).

10.09.500 Established – City Council authority

The city council has heretofore established, and shall hereafter establish, from time to time as it deems proper and necessary for the control of traffic, parking zones and loading zones upon the streets of the city. The establishment of and all changes in such zones shall be only as duly ordered by the city council and entered in the official minutes of its meetings. (Ord. 537 §2, 1973).

10.09.510 Designation – Signs required

The chief of police is authorized and directed to designate all parking and loading zones by causing appropriate parking signs to be installed upon the streets clearly informing the public of the location of the parking and loading zones and the parking time allowed therein. (Ord. 537 §3, 1973).

10.09.520 Parking spaces to be marked

The chief of police is authorized and directed to cause lines or markings to be painted or placed upon the street surfaces, or upon the curbs, for the purpose of designating spaces to be used for the parking of vehicle. (Ord. 537 §4, 1973).

10.09.530 Loading zone use restrictions

A loading zone or space may be occupied by a vehicle while actually engaged in loading and unloading persons, supplies or merchandise only for such period of time as is set forth on the loading zone sign. Parking in a loading zone or space during operating time for any other purpose is unlawful. (Ord. 537 §7, 1973).

10.09.540 Parking – Procedures

Any vehicle parked within a parking or loading zone shall be parked entirely within the markings designating one parking space; shall be parked parallel or diagonal to the curb in accordance with the markings of the parking space; and, in case of diagonal parking, shall be parked so that the front of the vehicle is nearest the curb. (Ord. 537 §5, 1973).

10.09.550 Unlawful parking

It is unlawful for any person to park a vehicle, or, having parked the same, to suffer it to remain parked in violation of the regulations on any duly installed parking sign. When the parking sign merely states the duration of time allowed for parking, for example, "two--hour parking," then the regulation shall be in force only during "operating time;" when the sign forbids parking at all times, or at designated times, the regulation is in force at all times, or as stated. (Ord. 537 §8, 1973).

10.09.560 Parking violation – Penalties

Any operator or motor vehicle owner violating any duly posted or marked parking regulation by parking in excess of the time allowed in any parking zone or in violation of the following shall be subject to a penalty for such violation as set forth in Appendix 3. (Ord. 704 §1, 1990: Ord. 537 §9, 1973).

1) Overtime parking

2) Parking in two stalls

3) Parking in loading zone

4) Blocking an alley

5) Parking in crosswalk

6) Parking wrong side of street

7) Parking in driveway

8) 2 a.m. to 7 a.m. No Parking

10.09.570 Parking violation – Enforcement – Notice or citation

It shall be the duty of each police officer observing a violation of the provisions of Sections 10.09.490 through 10.09.560 of this chapter to leave at or upon the vehicle in violation a notice

of such violation. The notice shall bear the date and hours of leaving the same at or upon such vehicle, and shall state the nature of the parking violation observed. When the violation is "overtime parking," a separate notice for each hour or fraction thereof that the vehicle remains in violation shall be issued. The notice shall instruct the owner or operator of such vehicle to report to the police department or to the court having jurisdiction in regard to such violation within five days. Any owner or operator receiving a notice or citation for overtime parking may post a bond with the police department or the clerk of the magistrate's court for the amount of penalty computed as fixed in Section 10.09.560 above. The failure of the owner or operator to report, or appear, or post bond pursuant to such notice shall constitute a violation of Sections 10.09.490 through 10.09.560 of this chapter, and shall be punishable as provided in Chapter 1.02 of this code. The issuance of a citation or notice shall not be the exclusive remedy for enforcement of the provisions of the provisions cited above, all other lawful remedies being reserved, including the filing and prosecution of a criminal complaint. (Ord. 537 §10, 1973).

10.09.580 Parking violations – Penalties for late court appearance

In addition to all other penalties imposed by the provisions of Sections 10.09.490 through 10.09.570, any person failing to report or appear within the time limited by the instructions upon an overtime parking ticket or parking citation, duly issued, shall be subject to double the penalty set in Section 10.09.560 of this chapter if the delay has not exceeded ten days; triple the penalty set if the delay has been more than ten days but has not exceeded twenty--five days, and five times the penalty if the delay has been more than twenty--five days. (Ord. 537 §11, 1973).

10.09.590 Parking violation – Failure to respond to citation

It is unlawful for any person or persons to fail or neglect to appear in response to and as required by the citation, regardless of the disposition of the charge upon which citation was originally issued. Appearance in magistrate's court shall be deemed complied with by an appearance by the person cited or by his attorney. (Ord. 537, §12, 1975).

10.09.600 Loading zones and restricted parking – Designation and signs

The City Transportation Engineer is hereby authorized to determine the location of passenger and freight curb loading zones and restricted parking zones and shall place and maintain appropriate signs or markings indicating the same and stating the hours during which the provisions of this Section are applicable. (Ord. 818A §28, 1999).

10.09.610 Freight curb loading zones

1) No person shall stop a vehicle or permit the same to remain stopped for any purpose or length of time other than for the expeditious loading and/or unloading of materials in any place marked as a freight curb loading zone during the hours when the provisions applicable to such zones are in effect. Vehicles so using freight curb loading zones must have City freight permit and freight license sticker permanently affixed to the front windshield of the vehicle as prescribed by City ordinance. In no case shall the stop for loading and/or unloading of materials exceed thirty (30) minutes.

2) The driver of a passenger vehicle may stop at a place marked as a freight curb loading zone for the purpose of and while actually engaged in loading or unloading passengers when such

stopping does not interfere with any City-licensed vehicle used for the transportation of materials which is waiting to enter or about to enter such zone; provided, however, that the driver must remain with his or her vehicle. (Ord. 818A §29, 1999).

ARTICLE III FIRE LANES OR HAZARDOUS AND CONGESTED AREAS

10.09.620 Standing or parking within access roadways for fire apparatus

1) No person shall stand or park a vehicle within any designated fire apparatus access roadway (fire lane) located near a building as required in Section 10.207(b) of the Uniform Fire Code, as heretofore adopted.

2) City police are specifically authorized to enter upon private property, when necessary, for the sole purpose of enforcing the prohibition set forth in subsection A of this section. (Ord. 700 §1, 1990).

10.09.630 No stopping, standing or parking near hazardous or congested places or within non-parking zones

1) There shall be no stopping, standing or parking of motor vehicles within the following areas:

    a) Areas designated by the city police, by proper signs, as being hazardous or congested, or likely to become so if there is stopping, standing or parking of vehicles;

    b) There shall be no standing, sitting, parking or otherwise obstructing the use of public or private property when such property has been prominently posted. The Rexburg Police Department, after receiving written authorization from the property owner or its (his/her) designated agent, shall enforce the foregoing provision. A violation of this section shall be punishable by a fine of $25 plus court costs for the first offense; $50 plus court costs for the second offense; and $75 plus court costs for the third and each subsequent offense (also set forth in Appendix 3).

2) City police are specifically authorized to enter upon private property, when necessary, for the sole purpose of enforcing the above prohibitions. (Ord. 752 §1, 1993; Ord. 700 §2, 1990).

10.09.640 Violation – Penalty

Any violation of any provision of this chapter by any person, firm or corporation shall constitute a nonmoving infraction, and shall be punishable by a fine of not less than ten dollars and not more than three hundred dollars, exclusive of court costs, for any single violation. (Ord. 700 §3, 1990).

CHAPTER 10.10 STORAGE OF VEHICLES OR PROPERTY ON STREETS*

*Note to Chapter 10.10: For statutory provisions authorizing officers to remove illegally stopped vehicles, see Idaho Code §49-756.

10.10.010 Using streets for storage prohibited

No person shall park a vehicle, boat, trailer or other item upon any street for a period of time longer than forty-eight hours. (Ord. 818A §48, 1999).

10.10.020 Authority to take possession of abandoned property

1) It is unlawful for any person to use any street in the city for the purpose of repairing any vehicle, except in the case of emergency, and it is unlawful for any person to store any automobile, truck, bicycle, wagon or other conveyance, machine, implement or other item of personal property upon any of the streets of the city.

2) It is the duty of the chief of police and officers of the police department to take possession of any such automobile, truck, bicycle, wagon or other conveyance, machine, implement or other item of personal property found deserted and unclaimed for a period of twenty--four hours upon the streets. (Ord. 407 §1, 1956).

10.10.030 West Fourth South Street restrictions

It is unlawful for any person to leave or store any automobile, truck, bicycle, wagon or other conveyance, or vehicle, machine, implement or other item of personal property at any time on either side of West Fourth South Street in the city going east from the intersection of Second West to First West Street and going west from the intersection Refuge West Street a distance of five hundred feet on the south side thereof and a distance of four hundred feet on the north side thereof. (Ord. 523 §1(part), 1972).

10.10.040 Leaving or storing property on certain streets

It shall be unlawful for any person to leave or store any automobile, truck, bicycle, wagon or other conveyance or vehicle, machine, implement or other item of personal property between the hours of 2 o'clock a.m. and 7 o'clock a.m. of each day upon the following streets in the City of Rexburg, Idaho:

Main Street from railroad tracks on the West to Second East

First East from First South to First North

College Avenue from Main Street to Second South

Second South from Center Street to First East

Center Street from First South to First North

Carlson Avenue from College Avenue to Center Street

Cornell Avenue

Harvard Avenue

South First East between Second and Third South (Ord. 523 §1(part), 1972).

10.10.050 Use of certain streets and alleys restricted – From November 1st through March 1st

It is unlawful for any person to leave or store any automobile, truck, bicycle, wagon or other conveyance, or vehicle, machine, implement or other item of personal property between the first day of November of each year and the first day of March of the following year upon any other street or alley in the city between the hours of two a.m. and seven a.m. (Ord. 523 §1(part), 1972).

10.10.060 Using streets for storage of motor homes, boats and trailers prohibited

No person shall park a motor home, boat, trailer or other item upon any street for a period of time longer than forty-eight hours. Motor homes, boats and trailers which are moved from a parking spot and then re-parked on the same street block face within twenty-four hours from the time of said removal shall be deemed to have been continuously parked for the purposes of this section. “Block face” means the side of the street where the vehicle was parked between two intersecting streets. (Ord. 818A §49, 1999).

10.10.070 Impoundment and reclaiming procedure

It shall be the duty of the officers of the police department to take possession of any automobile, truck, bicycle, wagon or other conveyance, machine, vehicle, implement or other item of personal property described in Sections 10.10.020 through 10.10.050, and hold the same at the city hall or at some place suitable to store the same. Any such automobile, truck, bicycle, wagon or other conveyance or vehicle, machine, implement or other item of personal property may be reclaimed by the owner upon making proper proof of ownership, and the payment of the costs for moving the same. In the event such automobile, truck, bicycle, wagon or other conveyance or vehicle, machine, implement or other item of personal property is not claimed within thirty days as provided in Section 10.10.080 the same shall be sold as provided in Sections 10.10.090 through 10.10.130 of this chapter. (Ord. 523 §1(part), 1972).

10.10.080 Impounded property – Recordkeeping and storage requirements

1) All property taken possession of under the provision of this chapter shall be listed by the chief of police or other officer of the police department in a book kept for such purposes, giving therein the following information:

    a) Place where found or taken possession of;

    b) Description of article;

    c) Name of officer taking possession of the article;

    d) Date of taking possession.

2) All such articles so taken possession of shall be held by the chief of police at the city hall, or at some place suitable to store such articles, for a period of thirty days from and after the date of taking possession thereof. (Ord. 407 §3 (part), 1956).

10.10.090 Impounded property – Sale – Notice requirements

When the provisions of Section 10.10.080 have been complied with, including the holding of the property for a period of thirty days, it shall then be the duty of the chief of police to advertise such article or articles for sale, and to sell the same at public or private sale, as may in his judgment be deemed best. Notice of such sale shall be published in two issues of the official newspaper of the city, the second publication to be one week after the first publication, and the sale of such property shall be held not less than ten days nor more than fifteen days from the date of the first publication. (Ord. 407 §3(part), 1956).

10.10.100 Impounded property – Conditions of sale

The chief of police shall, at the time advertised for the sale of any article as provided in Section 10.10.090, sell the same to the best advantage possible, and shall issue to the purchaser a bill of sale, stating therein that the same is sold in accordance with the terms of this chapter. (Ord. 407 §3 (part), 1956).

10.10.110 Impounded property – Proceeds of sale

All moneys received from sales as provided for in Sections 10.10.080 through 10.10.100 shall be immediately turned over by the chief of police to the city clerk-treasurer, who shall transmit the same to be credited to the general fund. (Ord. 407 §3(part), 1956).

10.10.120 Repossession of personal property – Payment of costs

The owner of any article or articles taken possession of, held and/or offered for sale under the terms of this chapter, who shall appear prior to the time of such sale and make proper proof of ownership, shall be allowed to take such article or articles out of the possession of the chief of police on payment of any costs which have accrued against the same. (Ord. 407 §4, 1956).

10.10.130 Warrant in favor of owner of article – Conditions – City Council authority

The city council may, on motion, at any time after any article is sold, not exceeding six months thereafter, order the city clerk-treasurer to draw a warrant in favor of the owner of the article for whatever amount was received and credited to the general fund from the sale of said article, less the costs charged against the same, upon due and sufficient proof as to who is the owner of such article. (Ord. 407 §5, 1956).

10.10.140 Penalty

It shall be unlawful and constitute a public offense for any person to violate any of the provisions of this ordinance. Every person convicted of the violation of this ordinance shall upon the conviction thereof, be punished by a fine of not more than $100.00, or by imprisonment in the city jail for not more than 30 days, or by both such fine and imprisonment, plus the costs of prosecution. In the event of default in payment of such fine and costs, any such person so

convicted of the violation of this ordinance shall be confined in the city jail for the payment thereof at the rate of $1.50 per day. (Ord. 407 §6, 1972).

CHAPTER 10.11 BICYCLES

10.11.010 Prohibited on sidewalks

That it shall be unlawful for any person or persons to ride on a Bicycle on any of the plank sidewalks within the corporate limits of the Village Rexburg, Idaho. (Ord. 28 §1, 1901).

10.11.020 Speed restrictions

It shall be unlawful for any person or persons to ride a bicycle on any of the streets of the Village of Rexburg at a greater speed than 12 miles per hour, and on Main Street at a greater speed than five miles per hour, and no racing with bicycles shall be allowed on the streets of the Village of Rexburg at any time only with the consent of the Village Board. (Ord. 28 §2, 1901).

10.11.030 Violation – Penalty

Any person of persons violating the provisions of a misdemeanor, and upon conviction thereof shall be fined in any sum not to exceeding twenty-five ($25) dollars and costs of conviction, and in default of payment of said fine and costs shall be imprisoned in the Village jail and work upon the streets of the Village of Rexburg one day for each two dollars of said fine and costs. (Ord. 28 §3, 1901).

CHAPTER 10.12 MOTORCYCLES

10.12.010 Riding regulations

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operation shall not carry any other person not shall any other person ride upon a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon a permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the motorcycle. (Ord. 482 §6, 1968).

10.12.020 Helmet required

No person shall ride upon a motorcycle as operator or passenger, upon any public street, highway, road, or way within the City, unless at all times when so operating or riding upon said vehicle he is wearing, as part of his motorcycle equipment, a protective safety helmet of a type and quality equal to or better than the standard established for such helmets by the Commissioner of Law Enforcement of the State of Idaho. (Ord. 482 §6, 1968).

CHAPTER 10.13 PEDESTRIANS

10.13.010 Pedestrians subject to traffic regulations

Pedestrians shall be subject to traffic control signals at intersections as provided herein, and at all places where traffic is controlled by automatic signal lights, shall comply with such signals, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this Ordinance. (Ord. 482(part), 1968).

10.13.020 Right-of-way in crosswalks

1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be, to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the one-half (2) of the roadway as to be in danger, but no pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.

2) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (Ord. 482(part), 1968).

10.13.030 Crossing at other than a crosswalk

Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway. (Ord. 482(part), 1968).

10.13.040 Pedestrians to use right half of crosswalks

Pedestrians shall move, whenever practicable, upon the right side of crosswalks. (Ord. 482(part), 1968).

10.13.050 Drivers to use due care

Notwithstanding the foregoing provisions of this Ordinance, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street. (Ord. 482(part), 1968).

10.13.060 Pedestrians on roadways

1) Where sidewalks are provided, it shall be unlawful for any pedestrians to walk along and upon an adjacent roadway.

2) Where sidewalks are not provided, any pedestrian walking along and upon a roadway shall, when practicable, walk only on the left side of the roadway of its shoulder facing traffic which may approach from the opposite direction (Ord. 482(part), 1968).

CHAPTER 10.14 RAILROADS

10.14.010 Grade crossing – Obedience to signal

1) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this ordinance, the driver of such vehicle shall stop within fifty feet (50'), but not less than fifteen feet (15') from the nearest rail of such railroad, and shall not proceed until he can do so safely.

    a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;

    b) Crossing gate is lowered or when a human figure gives or continues to give a signal of the approach or passage of a railroad train.

    c) Railroad train approaching within approximately one thousand five hundred feet (1,500') of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard.

    d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened, or closed. (Ord. 482(part), 1968).

10.14.020 Oregon Shortline right of way

That a Right of Way is dedicated and hereby granted unto the Oregon Short Line Railroad Company, a corporation, its successors and assigns, for use for its railroad across First North Street between Second and Third West Streets of said City, as per the recorded plat thereof, said right of way to be a strip known as the Miller Brother's spur 17 feet wide across said street for the extension of its present spur which is now constructed west of the Miller Brothers elevators, as shown by said attached Map - Which is made a part of this ordinance, Said Right of Way to be for the duration of 99 years. (Ord. 255 §1, 1920).

That a Right of Way is dedication and hereby granted unto the Oregon Short line Railroads Company, a Corporation, its successors and assigns, for use for its railroads across First North Street between Second and Third West Streets of said City, as per the recorded plat thereof, said right of way to be a continuation of the strip known as The Anderson-Koon Company spur, seventeen (17) feet wide across said Street for the extension of its present spur which is now constructed West of the elevator of Anderson-Koon Company, as shown by the attached map, which is made a part of this ordinance. Said Right of Way to be for the duration of 99 years. (Ord. 282 §1, 1923).

10.14.030 St. Anthony Railroad right of way

That the right is hereby granted unto the St. Anthony Railroad Company, a corporation, its successors and assigns to the perpetual use as a right of way for its railroad, those certain streets and alleys hereinafter described within the Village of Rexburg, Fremont County, State of Idaho, and said Railroad Company, its' successors and assigns, is hereby granted permission and authority to lay out, construct and perpetually maintain its' railroad, including switches, sidetracks and other appurtenances and adjuncts reasonably necessary for the proper construction and operation of its railroad and within the scope of its general powers and purpose, upon and across the following named streets and alleys and to the extent hereinafter specified to-wit: - A strip and tract of land one hundred and fifty feet in width of which the center line of the main track of said Railroad Company as now surveyed, staked and located, in the center line across and through each and every of the following named streets, viz:

Third North, Street, First West Street, Second North Street, First North Street, Second West Street. Also a strip of land fifty feet in width of which the center line of said main track is the center, across and through each and every of the following named streets, viz: Main Street, Third West Street, First South Street, Second South Street, Fourth West Street, Third South Street, Fourth South Street and Fifth West Street. (Ord. 17 §1(part), 1899).

10.14.040 Right of way conditions

The grant hereinbefore made, is subject to the following conditions:

Railroad tract shall be laid on such grades as the same are now or may hereafter be established by the City Council. The water courses of said street should be left and kept free and unobstructed, and good crossings at the grade of said tract shall be made and maintained by said Railroad Company. The said Railroad Company shall plank between said rails on said streets crossing. Said planking to be for the full width of the streets and sidewalk, and even with the track. (Ord. 255 §2, 1920).

10.14.050 Railroad liability

That the City of Rexburg shall in no way be liable or responsible for any accident or damage that may occur in the construction or operation of said railroad by reason of the fault, misconduct or negligence of the said grantee, its successors and assigns, or their employees, and the acceptance of this grant shall be deemed an agreement on the part of said grantee for itself, its successors and assigns, to have the said City of the free from all liability, loss, expense and damage of any nature arising out of any such fault, misconduct or negligence. (Ord. 255 §3, 1920).

10.14.060 Right of way restrictions

Nothing in this chapter shall be so construed as to give the Oregon Short Line Railroad Company, its successors and assigns, the right to close any of the streets within the corporate limits of the City of Rexburg, from public traffic or to prohibit the City Council from granting any other corporation or association the right to build a railroad that shall intersect or cross the tracts of the said Oregon Short Line Railroad Company. (Ord. 255 §4, 1920).

10.14.070 Railroad destruction – Misdemeanor

Any person or persons, who maliciously removes, displaces, injures, or destroys any part of any railroad, whether for steam or horse cars, or any track of any railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station house, or other structure or fixture, or any part thereof attached to or connected with any railroad; or places any obstruction upon the rails or tracks of any railroad, or any switch, branch, branchway or turnout connected with any railroad; within the corporate limits of the Village of Rexburg is guilty of a misdemeanor. (Ord. 5 §5, 1899).

10.14.080 Railroad water crossings required

All companies constructing railroads within the corporate limits of the Village of Rexburg shall be subject to the following regulations:

They shall, at their expense, construct and keep in good repair crossing for all water ditches, sewers, drains, and all fixtures connected therewith and with the distribution of water in said Village which may be affected by the construction of their railroads; such construction and repairs to be done subject to the approval of the Village board.

10.14.090 Railroad street crossings required

It shall be incumbent on all railroads companies, at their own expense, to construct safe and sufficient crossings at grade of such railroads, for all streets now or hereafter to be made which shall be intersected by such railroads, including such embankments or excavations as may be required to make the passage over such railroads safe and convenient for all purposes for which streets are usually used. Such companies shall also make their railroad tracks, conform to what is or may hereafter be the established grade of the streets at the places through which the same may pass, and no company shall take up, remove, carry away or cause or permit to be taken up, removed or carried away, any rock, gravel, earth or other material from any street, alley or public place for making embankments, grades, or for any other purpose except by the permission of the Village Board and under the direction of the street supervisor.

All railroad companies shall plank between the rails and for two feet on either side of the outer rail on all streets that may be crossed by said tracks, said planking to be for the full width of such streets and sidewalks, unless otherwise provided by the Village Board. (Ord. 16 §2, 1899).

10.14.100 Train speed, bell, and standing regulations

The tracks of all railroads shall be laid in the center of the streets, unless otherwise directed by the Village Board; and all locomotives, cars and trains are hereby prohibited from running at a greater speed than eight miles per hour within the corporate limits of said Village; and the bells on locomotives in motion shall in all cases be rung continuously in the inhabited portions of the Village; and no train engine or cars shall be allowed to stand upon any street or sidewalk crossing so as to obstruct the ordinary travel thereon for a longer period at any one time than eight minutes. (Ord. 16 §3(part) 1899).

10.14.110 Violation – Penalty

Any engineer, train or yardmaster, switchman or other person in charge or control of such locomotive, cars or trains violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding twenty-five dollars, or be imprisoned not exceeding thirty days, or both such fine and imprisonment, together with costs of persecution. (Ord. 16 §3(part) 1899).

CHAPTER 10.15 MUNICIPAL AIRPORT*

*Note to Chapter 10.15: For statutory provisions granting cities the authority to provide and regulate municipal airport facilities, see Idaho Code §§21-401 and 50-321.

10.15.010 Person defined

"Person" means any individual, firm, copartner ship, corporation, company, association, joint stock association or body politic, and includes any trustee, receiver, assignee or other similar representative thereof. (Ord. 371 §1(a), 1950).

10.15.020 Conformity with Civil Aeronautics Board regulations required

All aeronautical activities at the Rex- burg Municipal Airport, and all flying of aircraft departing from or arriving at the Rexburg Municipal Airport, shall be conducted in conformity with the current pertinent provisions of the Civil Air Regulations issued by the Civil Aeronautics Board. (Ord. 371 §2(a), 1950).

10.15.030 Airport manager – Authority to suspend operations

The airport manager may suspend or restrict any or all operations without regard for the weather conditions whenever such action is deemed necessary in the interest of safety. (Ord. 371 §2(b), 1950).

10.15.040 Public safety requirements – Airport manager authority

The airport manager shall at all times have authority to take such action as may be necessary to safeguard the public in attendance at the airport. Every pilot, mechanic or other person employed on or using the airport shall cooperate with the airport management to enforce these rules and to see that all persons on the premises use due care and caution to prevent injury to persons or damage to property. (Ord. 371 §2(c), 1950).

10.15.050 Rules and regulations – Responsibility of instructors and students

Instructors will fully acquaint their students with these rules and shall be responsible for the conduct of students under their direction during dual instruction. When a student is flying solo, it shall be his sole responsibility to observe and abide by these rules. (Ord. 371 §2(d), 1950).

10.15.060 Ground rules generally

Aircraft engines shall be started or warmed up only in the places designated for such purposes by the airport manager. At no time shall engines be turned up when hangars, shops, other buildings, or persons in the observation area, are in the path of the propeller stream. When hand--cranked, a competent operator shall be at the controls and the wheels chocked. No person shall fly a plane from the field without a check as to the fuel and oil supply and airworthiness of the aircraft. (Ord. 371 §3(a), 1950).

10.15.070 Aircraft – Parking location and procedure

Aircraft shall not be parked except in areas and in the manner designated by the airport manager. (Ord. 371 §3(b), 1950).

10.15.080 Aircraft – Repair restrictions

All repairs to aircraft or engines, except emergency repairs, shall be made in the spaces designated for this purpose and not on the area reserved for landing or taking off. (Ord. 371 §3 (c), 1950).

10.15.090 Landing area restrictions

No person or persons, except airmen, duly authorized personnel, passengers going to or from aircraft, or other persons being personally conducted by airmen or airport attendants, shall be permitted to enter the landing area proper. This does not give any person or persons so accepted the privilege of unrestricted use of this space. These privileges are confined to the necessary use of this space in connection with flights, inspections or routine duties. (Ord. 371 §3(d), 1950).

10.15.100 Aircraft – Tie-down and blocking requirements

Aircraft shall be properly blocked and tied down by the owner or operator when parked for overnight or when conditions otherwise warrant. (Ord. 371 §3(e), 1950).

10.15.110 Motor vehicles prohibited beyond building line – Exceptions

No motor vehicle shall be driven beyond the building line proper without the express permission of the airport manager or his designated representative, nor otherwise than in accordance with his instructions. (Ord. 371 §3(f), 1950).

10.15.120 Automobile parking restrictions

No automobile shall be parked on the airport property except in areas designated for that purpose by the airport manager. (Ord. 371 §3(g), 1950).

10.15.130 Taxiing – Restrictions generally

No person shall taxi an aircraft to or from the hangar line or to or from an approved parking space until he has ascertained that there will be no danger of collision with any person or object in the immediate area by visual inspection of the area and, when available, through information furnished by airport attendants. (Ord. 371 §4(a), 1950).

10.15.140 Taxiing – Speed limitation

No aircraft shall be taxied except at a safe and reasonable speed. (Ord. 371 §4(b), 1950).

10.15.150 Taxiing – Restrictions on vehicles without brakes

No aircraft not equipped with adequate brakes shall be taxied near buildings or parked aircraft unless an attendant is at the wing of the aircraft to assist the pilot. (Ord. 371 §4(c), 1950).

10.15.160 Keeping runway clear

For engine run up and while awaiting takeoff clearance, planes shall keep clear of runway. (Ord. 371 §4(d), 1950).

10.15.170 Taxiing – Conformance with approved patterns required

Aircraft taxiing shall conform to the taxi patterns attached to the ordinance codified in this chapter and on file in the office of the city clerk-treasurer, which are a supplement to these rules. (Ord. 371 §4(e), 1950).

10.15.180 Landings and takeoffs – Wind conditions

Landings or takeoffs shall be made on the runway or landing strip most nearly aligned with the wind or, when winds are light, to the south. Winds of six miles per hour or less are considered calm. (Ord. 371 §5(a), 1950).

10.15.190 Landings and takeoffs – Safe distance requirements

No landings or takeoffs will be made except at a safe distance from buildings or aircraft. (Ord. 371 §5(b), 1950).

10.15.200 Turns after takeoff restrictions

No turn shall be made after takeoff until the airport boundary has been reached and the pilot has attained an altitude of at least four hundred feet and has ascertained there will be no danger of collision with other aircraft, unless exceptions are authorized. (Ord. 371 §5(c), 1950).

10.15.210 Fire and safety regulations – Generally

All persons using in any way the airport area or the facilities of the airport shall exercise the utmost care to guard against fire and injury to persons or property. (Ord. 371 §6(a), 1950).

10.15.220 Operations using welding or open flame restrictions

No person shall conduct any welding or open flame operations in or adjacent to any hangar unless specifically authorized by the airport manager. (Ord. 371 §6(b), 1950).

10.15.230 Material and equipment storage – Fire hazards prohibited

No person shall store or stock material or equipment in such a manner as to constitute a fire hazard. (Ord. 371 §6(c), 1950).

10.15.240 Aircraft fueling – Smoking prohibited

No person shall smoke within one hundred feet of an aircraft being fueled. (Ord. 371 §6(d), 1950).

10.15.250 Aircraft fueling restrictions

No aircraft shall be fueled while the engine is running or while such aircraft is in a hangar. (Ord. 371 §6(e), 1950).

10.15.260 Aircraft fueling – Grounding requirements

All aircraft shall be positively grounded when being serviced with gasoline. (Ord. 371 §6(f), 1950).

10.15.270 Cleanliness responsibilities

All private plane and hangar owners and pilots shall be responsible for the cleanliness of the airport and the facilities they use. (Ord. 371 §6(g), 1950).

10.15.280 Commercial privilege restrictions

No commercial privileges shall be allowed any unauthorized operators or pilots except by written permission of the airport manager or city council. (Ord. 371 §7, 1950).

10.15.290 Violation – Penalty

Any person violation any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punishable as set forth in Chapter 1.24 of this code. (Ord. 371 §8, 1950).

ARTICLE I TRAFFIC UPON AIRPORT RUNWAYS AND TAXI AREAS

10.15.300 Unlawful acts

It is unlawful for any person, firm, corporation or business entity, except as duly authorized by the Rexburg-Madison County airport board or its manager, to drive a motor vehicle or vehicles, animal or animals, ride or walk upon or across any airport runway or taxi area located upon the premises occupied by the Rexburg Madison County Airport, or to permit animals to run at large on the premises occupied by the Rexburg-Madison County Airport and/or upon the premises occupied by the Rexburg Municipal Golf Course. (Ord. 580 §1, 1977).

10.15.310 Violation – Penalty

Any such person, firm, corporation or business entity who shall violate the provisions of Section 10.12.010 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than three hundred dollars or by imprisonment not to exceed six months, or by both such fine and imprisonment. (Ord. 580 §2, 1977).

TITLE 11 FRANCHISE AGREEMENTS

CHAPTER 11.01 UPPER VALLEY TELECABLE COMPANY, INC.

11.01.010 Grant of franchise

The chapter grants to Upper Valley Telecable Company, Inc., a non-exclusive franchise agreement which allows them to make use of public rights-of-way, and to collect a franchise tax on behalf of the City of Rexburg. It further provides for the details of how the agreement between the City and the cable company will be implemented. The effective date of the chapter is the date of its passage, approval and final publication. A copy of the full text of the agreement is available at City Hall, 12 North Center, in Rexburg, Idaho. Examination or copies may be requested in writing or in person during regular business hours of the City Clerk from 8:00 a.m. to 4:00 p.m. pursuant to the Open Records Act, Idaho Code, Title 9, Chapter 3. (Ord. 826, 2000).

11.01.020 Term

Term of Agreement: September 20th, 2000 to September 20th, 2010

CHAPTER 11.02 PACIFICORP (UTAH POWER)

11.02.010 Grant of franchise

The City hereby grants to PacifiCorp the right, privilege and authority to construct, maintain, operate, upgrade, and relocate its electrical distribution and transmission lines and related appurtenances, including underground conduits and structures, poles, towers, wires, guy anchors, vaults, transformers, transmission lines, and communication lines (collectively referred to herein as “Electric Facilities”) in, under, along, over and across the present and future streets, alleys, public ways and public places (collectively referred to herein as “Public Ways”) within the City, for the purpose of supplying and transmitting electric power and energy to the inhabitants of the City and persons and corporations beyond the limits thereof. (Ord. 929 §1, 2004).

11.02.020 Term

The term of this Franchise and General Utility Easement is for thirty-five (35) years commencing on the date of acceptance by the Company. (Ord. 929 §2(part), 2004).

CHAPTER 11.03 INTERMOUNTAIN GAS

11.03.010 Grant of franchise

There is hereby granted to Intermountain Gas Company, a corporation, its successors and assigns (hereinafter collectively referred to as "Grantee") a twenty (20) year extension to the right and authority to construct, install, maintain and operate a gas transmission and distribution system, including mains, pipes, conduits, services and other necessary structures and appliances

appertaining in, under, upon, over, across and along the streets, alleys, bridges and public places within the present and future corporate limits of the City of Rexburg, Idaho (hereinafter referred to as "City") for the furnishing, transmission, distribution and sale of gas, whether artificial, natural, mixed or otherwise, for heating, domestic, industrial and other purposes and for transmitting gas into through and beyond the said City. The City represents that it has the sole power and authority to make this grant of authority and agrees to notify Grantee in writing if the City should cease to have this power. (Ord. 954 §1, 2006).

11.03.020 Term

The right, authority and grant herein and hereby made to said Grantee, its successor and assigns, is granted for and limited in time to a period of twenty (20) years from March, 2006 through and including February, 2027. (Ord. 954 §4, 2006).

TITLE 12 STREETS, SIDEWALKS AND PUBLIC PROPERTY

Title 12 sets forth the provisions regulating construction, numbering, access, etc. relating to the City's streets and sidewalks.

For statutory provisions authorizing cities to remove encroachments on and construct, rebuild and repair public streets and sidewalks, see Idaho Code §§50-311 to 50-317.

CHAPTER 12.01 SIDEWALK CONSTRUCTION

12.01.010 Sidewalks in all areas of the city

The City of Rexburg hereby adopts the policy of complete compliance with respect to the requirement that there be sidewalks in all areas within the city limits of Rexburg. It shall be the duty of the City Engineer or the Planning and Zoning Commission to determine that a proposed site plan, or plat drawings contain provisions for minimum 5' sidewalks, unless there is prior written approval of the City Building Inspector for any deviation from a 5' sidewalk. It shall further be the duty of the City Engineer or the Planning and Zoning Commission to decline to issue permits necessary for construction or occupancy in the event such sidewalk compliance is not met. (Resolution No. 1994-4(part))

12.01.020 Standard Drawings and Specifications

The City of Rexburg adopts the standards and specification set forth in the City of Idaho Falls Standard Drawings & Specifications, as the City of Rexburg's minimum Standard Drawings & Specifications and any additions, amendments or addenda thereto established by the City Engineer. (Resolution No. 1995-1(part))

12.01.030 Subdivision annexation

Any subdivision which shall request annexation into the City of Rexburg or any subdivision which is in the Rexburg Impact Zone and all lots less than one acre in size, must be in substantial compliance with the Rexburg Standard Drawings & Specifications prior to being annexed or approved, unless modified by an annexation or development agreement. (Rexburg Subdivision Ordinance).

12.01.040 Sidewalk minimum requirements

Streets shall have as a minimum:

1. 5' Wide Sidewalks on both sides

2. Concrete Curb & Gutter on both sides

   Normal minimum grade = 0.40%

   Absolute minimum grade = 0.30% can be used only under unusual circumstances with prior written approval of the City Engineer. (Resolution No. 1995-1(part)).

12.01.050 New Owners

Whenever a lot within the City of Rexburg which does not have an existing sidewalk changes ownership, a new sidewalk must be installed on said lot within thirty (30) days unless a written extension of time for installation is granted by the City Engineer. (Resolution No. 1995-6(part)).

12.01.060 Reconstruction

Whenever there is major street reconstruction (which includes, but is not limited to, replacement of curb, gutter, or asphalt overlay) then the adjoining lot owners shall be required to install sidewalks, if such are not already in existence. (Resolution No. 1995-6(part)).

12.01.070 Existing sidewalks

When there are existing sidewalks already in place on the same side of a street, all new or replaced sidewalks should be in conformity, as far as placement, with those in existence. The width of the sidewalks shall be five feet or more unless the majority of the sidewalks on the same side of the street have a narrower width. (Resolution No. 1995-6(part)).

12.01.080 Obstruction of sidewalks

It shall be unlawful for any person to obstruct any street, alley or public sidewalk within the City of Rexburg. (Ord. 676 §1, 1987).

12.01.090 Business upon public sidewalks

It shall be unlawful for any person to store, install, maintain or operate any material, vehicle, structure, fixture or business upon any public sidewalk within the City, except as permitted by Section 12.04.090 below. (Ord. 676 §2, 1987).

It shall be unlawful to sell, display or advertise the sale of any goods, wares, merchandise, food or beverage upon or from any cart, rack, structure or vehicle situated upon any public sidewalk within the City, except as permitted by Section 12.04.090 below. (Ord. 676, §3, 1987).

12.01.100 Business upon public sidewalks – Exceptions

Notwithstanding Sections 12.04.060, 12.04.070 , and 12.04.080 hereinabove , the City Council may be resolution duly passed and adopted declare a day or days in the commercial areas of the City of Rexburg during which licensed merchants may display and sell goods, wares and merchandise in front of their place of business. The merchandise so displayed shall be confined within an area extending not more than four feet from the store front and the display shall not cover more than one-half of the store front and shall not extend within a distance of five feet from each side of the store front. There shall be no signs or advertising on the curbs, no outside food services and no tables and chairs for that purpose shall be permitted. The passageway for pedestrians shall not be reduced to less than six feet from the inside of the curb and such pedestrian passageway shall not be obstructed in any manner. (Ord. 676 §4, 1987).

12.01.110 Indemnifying liability

Any licensed merchant or other person conducting a lawful business in the commercial area, for the purpose of displaying goods, wares and merchandise who shall place such goods, wares and merchandise, racks, stands or other objects on the sidewalk, as provided in Section IV hereinabove , shall first be required to indemnify the City of Rexburg from any and all liability by reason thereof to the extent of $1,000,000.00 for any one accident and to file proof with the City of such liability insurance indemnifying the City. (Ord. 676 §5, 1987).

12.01.120 Sidewalks less than six feet

At any location in the commercial area where the sidewalk is less than six feet in width, then the clear space for pedestrian passage shall not be reduced to less than four feet. (Ord. 676 §6, 1987).

12.01.130 Violation – Penalty

Any person, firm or corporation violating any provision sections 12.04.070-12.04.110 shall, upon conviction thereof, be punishable by a fine not to exceed Three Hundred Dollars ($300.00) or by imprisonment for not more than six (6) months or by both fine and imprisonment for any single violation. (Ord. 676 §7, 1987).

12.01.140 Conformity with average setback

When fifty (50) percent or more of the lots on the same side of the street have been built, all buildings erected, established, or rebuilt shall be in conformity with the averaged setback of such buildings. In all Residential Zones all buildings erected, established, or rebuilt shall be required to place sidewalks and landscaping in any right-a-way which reasonably allows for placement of the sidewalk up to and including seven (7) feet of landscaping or as existing conditions dictate. In the Residential Zones the front yard setback would be changed to 20 feet. (Ord. 802 §2(part), 1998).

CHAPTER 12.02 OBSTRUCTIONS*

*Note to Chapter 12.02: For statutory provisions authorizing cities to remove all obstructions from sidewalks at the expense of the persons placing them there, see Idaho Code §50-314.

12.02.010 Applicability of Sections 12.02.020 through 12.02.040

The provisions of Sections 12.02.020 through 12.02.040 shall apply to the streets and parts of streets within the following limits:

Main Street between the Oregon Short Line Railroad and the east line of Third East Street and College Avenue between Main Street and Second South Street. (Ord. 300 §3, 1929).

12.02.020 Construction or maintenance of pumps, tanks, appliances, signs, etc. – Restrictions

It is unlawful for any person, firm or corporation to install, build, erect, place or maintain upon any curb or sidewalk, or any place between the curbline and private property line on the streets

and parts of streets within the limits designated in Section 12.02.010 of this chapter, any pump of any kind, or tank or any fixture or appliance for any purpose whatsoever, or any sign or other obstruction, or any planks, plank crossing, or driveway in or over any gutter within the defined limits within the city. (Ord. 300 §1, 1929).

12.02.030 Removal of certain objects required – Time limit – Abatement as public nuisance

All pumps, tanks, and other fixtures and appliances of every kind whatsoever, and all signs and other obstructions upon any curb or curbs, sidewalk, or any space between the curbline and private property line, and all planks and plank crossings and driveways over any gutter or gutters in the streets and parts of streets designated in Section 12.02.010, shall be removed before the first day of June 1950 and any and all such objects and obstructions not removed within the time in this section provided shall be and are hereby declared to be public nuisances, and same shall be abated as public nuisances. (Ord. 300 §2, 1929).

12.02.040 Violation of Sections 12.02.010 through 12.02.030 – Penalty

Any person, firm or corporation violating the provisions of Sections 12.02.010 through 12.02.030 shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 300 §4, 1929).

12.02.050 Sidewalk obstruction prohibited – Exception

It is unlawful for any person or persons to obstruct any part of the sidewalks within the corporate limits of the city with building material or any other material without permission of the city council first obtained in writing. (Ord. 5 §1, 1899).

12.02.060 Excavations restrictions

It is unlawful for any person or persons to excavate the earth from the sidewalks or from under the plank sidewalks within the corporate limits of the city for cellars or pits, or for any purpose. (Ord. 5 §2, 1899).

12.02.070 Riding or driving animals on sidewalks prohibited

It is unlawful for any person or persons to lead, drive or ride any horse, mule or any other beast of burden upon any sidewalk within the corporate limits of the city. (Ord. 5 §3, 1899).

12.02.080 Injuring or obstructing streets deemed misdemeanor

Any person or persons who obstructs, injures or damages any of the streets or alleys of the city, either by placing obstructions thereon, by digging in or by deepening or deviating the water of any stream, or by placing any obstruction in any ditch or stream within or along any of the streets or alleys of the city, or by placing or constructing any obstruction, ditch or embankment upon their own or other lands so as to make or cause any water to flow upon or impair any of the streets or alleys of the city, or in any other manner injures or obstructs any of the streets or alleys of the city, is guilty of a misdemeanor. (Ord. 5 §4, 1899).

12.02.090 Railroad property – Malicious damage or destruction deemed misdemeanor

Any person or persons, who maliciously removes, displaces, injures or destroys any part of any railroad, whether for steam or horse cars, or any track of any railroad, or any branch or branchway, switch, turnout bridge, viaduct, culvert, embankment, station house or other structure or fixture, or any part thereof attached to or connected with any railroad, or places any obstruction upon the rails or tracks of any railroad or any switch, branch, branchway or turnout connected with any railroad within the corporate limits of the city is guilty of a misdemeanor. (Ord. 5 §5, 1899).

12.02.100 Violation of Sections 12.02.050 through 12.02.090 – Penalty

Any person or persons violating any of the provisions of Sections 12.02.050 through 12.02.090 of this chapter, upon conviction thereof, shall be deemed guilty of a misdemeanor and shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 5 §6, 1899).

CHAPTER 12.03 STREET NAME AND NUMBERING SYSTEM*

*Note to Chapter 12.03: For statutory provisions authorizing cities to provide for the naming of streets and numbering of houses, see Idaho Code §50-318.

12.03.010 Street naming system described

All the streets and avenues, as platted in the several surveys of the city, shall be known by names as follows:

The street immediately south of Block 33, plat of Rexburg Townsite, running east and west to the eastern and western limits of the city, shall be known by the name of Main Street, and the next street south as First South Street, and so on in regular order of number to the southern limits of the city. The street immediately north of said Block 33, running east and west to the eastern and western limits of the city shall be known as First North Street, and the next street north as Second North Street, and so on in regular order of number to the northern limits of the city. The street immediately west of said Block 33, running north and south to the northern and southern limits of the city shall be known as Central Avenue, and the next street west as First West Street and so on in regular order of number to the western limits of the city. The street immediately east of said Block 33, running north and south, shall be known as First East Street and so on in regular number order to the eastern limits of the city. (Ord. 221 §1, 1919).

12.03.020 College Avenue and Carlson Avenue designated

1) The street running south from Main Street to Second South Street through Blocks 38 and 49, plat of Rexburg Townsite, and Block 2 Parker Addition, shall be known as College Avenue.

2) The street running east from Central Avenue to College Avenue shall be known as Carlson Avenue. (Ord. 221 §2, 1919).

12.03.030 Directional prefixes for street names – System described

All numbers of houses on streets running east from Central Avenue shall have added thereto the letter E, signifying "east." All numbers of houses on streets running west from Central Avenue shall have added thereto the letter W, signifying "west." All numbers of houses on streets running south from Main Street shall have added thereto the letter S, signifying "south"; and all numbers of houses on streets running north from Main Street shall have added thereto the letter N, signifying "north." (Ord. 221 §3(part), 1919**)**.

12.03.040 Numbers and letters required – Police Chief duties

It shall be the duty of the chief of police to furnish each owner of any house situate upon any street or avenue within the limits of the city a written copy of the correct number and letter to which said house is entitled; and each owner shall, within sixty days after such notice, cause a painted, carved or metal duplicate of such number and letter to be placed in a conspicuous position upon such house in a permanent and durable manner. (Ord. 221 §4, 1919).

CHAPTER 12.04 PARK REGULATIONS

12.04.010 Hours of operation

1) The Parks shall be opened daily to the public between the hours of 5 A.M. to 11:30 P.M. every day; and it shall be unlawful for any person, or persons (other than city personnel conducting city business therein), to occupy or be present in said Park during any hours in which the Park is not open to the public.

2) Any section, or part of the Park, may be declared closed to the public by the City Council or designated agent of the City of Rexburg relative to Parks, at any time and for any purpose and for any interval of time, either temporarily or at regular or stated intervals. (Ord. 968, §3, 2006).

12.04.020 Requirements concerning use of grounds and facilities

Each person, firm or corporation using the public parks and grounds shall clean up all debris, extinguish all fires when such fires are permitted, and leave the premises in good order, and the facilities in a neat and sanitary condition. (Ord. 968, §1, 2006).

12.04.030 Prohibited acts

It shall be unlawful for any person, firm or corporation using such Parks to either perform or permit to be performed any of the following acts:

1) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities of Park property or appurtenances whatsoever, either real

or personal, unless specifically granted permission by the appropriate agent of the City of Rexburg.

2) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream, bay or other body of water in or adjacent to any Park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.

3) Bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, or refuse, or other trash. No such refuse or trash shall be placed in any waters or contiguous to any Park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the Park by the person responsible for its presence, and properly disposed of elsewhere.

4) Disturb the peace, or use any profane, obscene or blasphemous language.

5) Endanger the safety of any person by any conduct or act.

6) Commit any assault, battery, or engage in fighting.

7) Carry, possess, or drink any alcoholic beverage in any Park.

8) Violate any rule for the use of the Park, made or approved by the City Council or designated agent of the City of Rexburg relating to management of the Parks.

9) Prevent any person from using any Park, or any of its facilities, or interfere with such use in compliance with this ordinance and the rules applicable to such use. (Ord. 968, §2, 2006).

12.04.040 Some special activities prohibited

It shall be unlawful to engage in special activities including flying model airplanes, golf practice, games except at locations specifically designated for such activities by the City Council or designated agent of the City of Rexburg relative to Parks. Areas for such activities may be reserved by groups for use at specified times. (Ord. 968, §6(a), 2006).

12.04.050 Non-designated vehicles prohibited in parks

It shall be unlawful to drive or park any motor-driven vehicle except on a street, driveway or parking lot in any Park; or to park or leave any such vehicle in any place other than established for public parking, without a written permit from the City Council or designated agent of the City of Rexburg relative to Parks. (Ord. 968, §6(b), 2006).

12.04.060 Unleashed animals prohibited*

*Note to Section 12.04.060: See Section 6.04.010 for leash requirements and other animal owner responsibilities.

It shall be unlawful for any person to bring or harbor any animal in the Parks, except as may be allowed pursuant to established leash laws for the City of Rexburg. (Ord. 968, §6(c), 2006).

12.04.070 Sales within any park prohibited without permission

It shall be unlawful for any person other than those designated by the City Council or designated agent of the City of Rexburg relative to Parks, to vend, sell, peddle, or offer for sale any commodity or article within any Park. (Ord. 968, §6(d), 2006).

12.04.080 Smoking restrictions

It shall be unlawful for any person to smoke within fifty feet (50) of any structure, bleacher, playground equipment or water facility within the Park. (Ord. 968, §6(e), 2006).

12.04.090 Alcoholic beverage restrictions

It shall be unlawful for any person to have in his or her possession, custody or control any alcoholic beverages of any kind whatsoever. (Ord. 968, §6(f), 2006).

12.04.100 Posting of signs etc. prohibited without permission

It shall be unlawful for anyone to paste, glue, tack or otherwise post any sign, placard, advertisement, or inscription whatever, or for any person to erect or cause to be erected any sign whatever on any public lands or highways or roads adjacent to a Park without first having obtained permission from the City Council or designated agent of the City of Rexburg relative to Parks. (Ord. 968, §6(g), 2006).

12.04.110 Violation a misdemeanor

Any person, firm or corporation who fails, neglects, or refuses to comply with the provisions of this ordinance shall be deemed to be in violation thereof and guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not less than twenty-five dollars and not more than three hundred dollars, or may be confined in jail for a period of not more than thirty days, either or both such fine and imprisonment may be imposed, and in addition thereto, any person so convicted shall pay such costs as the Court may assess. (Ord. 968, §7, 2006).

12.04.120 Exceptions for government officials

Provided that the provisions of sections 12.04.010 – 12.04.100 shall not apply to any properly authorized government official in pursuit of any official duty. (Ord. 968, §6(part), 2006).

CHAPTER 12.05 ACCESS TO STREETS, ALLEYS AND PUBLIC SIDEWALKS

12.05.010 Obstruction unlawful

It shall be unlawful for any person to obstruct any street, alley or public sidewalk within the city of Rexburg. (Ord. 676 §1, 1987).

12.05.020 Public use of sidewalk – Restricted

It shall be unlawful for any person to store, install, maintain or operate any material, vehicle, structure, fixture or business upon any public sidewalk within the city, except as permitted by Section 12.05.040. (Ord. 676 §2, 1987).

12.05.030 Selling, displaying or advertising of merchandise – Restricted

It shall be unlawful to sell, display or advertise the sale of any goods, wares, merchandise, food or beverage upon or from any cart, rack, structure or vehicle situated upon any public sidewalk within the city, except as permitted by Section 12.05.040. (Ord. 676 §3, 1987).

12.05.040 Public use of sidewalks – Exceptions

Notwithstanding Sections 12.05.010 through 12.05.030, the city council may by resolution duly passed and adopted declare a day or days in the commercial areas of the city of Rexburg during which licensed merchants may display and sell goods, wares and merchandise in front of their place of business. The merchandise so displayed shall be confined within an area extending not more than four feet from the store front and the display shall not cover more than one-half of the store front and shall not extend within a distance of five feet from each side of the store front. There shall be no signs or advertising on the curbs, no outside food services and no tables and chairs for that purpose shall be permitted. The passageway for pedestrians shall not be reduced to less than six feet from the inside of the curb and such pedestrian passageway shall not be obstructed in any manner. (Ord. 676 §4, 1987).

12.05.050 Liability insurance – Required

Any licensed merchant or other person conducting a lawful business in the commercial area, for the purpose of displaying goods, wares and merchandise who shall place such goods, wares and merchandise, racks, stands or other objects on the sidewalk, as provided in Section 12.05.040, shall first be required to indemnify the city of Rexburg from any and all liability by reason thereof to the extent of one million dollars for any one accident and to file proof with the city of such liability insurance indemnifying the city. (Ord. 676 §5, 1987).

12.05.060 Clearance for pedestrian passage

At any location in the commercial area where the sidewalk is less than six feet in width, then the clear space for pedestrian passage shall not be reduced to less than four feet. (Ord. 676 §6, 1987).

12.05.070 Violation – Penalty

Any person, firm or corporation violating any provision of this chapter shall, upon conviction thereof, be punishable by a fine not to exceed three hundred dollars or by imprisonment for not more than six months or by both such fine and imprisonment for any single violation. (Ord. 676 §7, 1987).

CHAPTER 12.06 PARADES AND PUBLIC ASSEMBLIES

12.06.010 Definitions

The following words and phrases when used in this chapter shall have the meaning set out in this section.

1) Chief of police: means the chief of police of the city of Rexburg or the chief's authorized designee.

2) City clerk: means the clerk of the city or the clerk's authorized designee. (Ord. 810 §1, 1998).

12.06.020 Application

1) A person seeking a permit shall obtain and file an application with the city clerk on forms provided by such officer.

2) An application for a permit shall be filed with the city clerk at least forty-five days and not more than one year before the parade or public assembly is proposed to commence. (Ord. 810 §2, 1998).

12.06.030 Fees

The city council may establish such fees as are necessary and reasonable by resolution. (Ord. 810 §3, 1998).

12.06.040 Standards for issuance

1) Only one permit will be granted for the same time and/or location. The city clerk shall issue a permit on a first-come, first- served basis.

2) Any other reasonable regulation or restriction deemed necessary by the chief of police for the protection and safety of the parade participants, viewing public or for the public health, safety and general welfare of the citizens of the city may be imposed by the chief of police. However, such additional regulations or restrictions shall be specified in writing to the applicant with all reasons therefore clearly enumerated. (Ord. 810 §4, 1998).

12.06.050 Notice of denial of application

The city clerk shall act promptly upon a timely filed application for an activity requiring a permit but in no event shall grant or deny a permit less than twenty days prior to the event. If the city clerk denies the application, the applicant shall be notified by either personal delivery or United States mail at least twenty days prior to the event of his action and state the reasons for the denial to the address or telephone number provided on the permit application. (Ord. 810 §5, 1998).

12.06.060 Alternative permit

1) The city clerk, in denying an application for an activity requiring a permit, may authorize the conduct or the activity requiring a permit at a date time or place different from that named by

the applicant. An applicant desiring to accept an alternate permit shall within five days after notice of the action of the city clerk, file a written notice of acceptance with the city clerk.

2) An alternate permit shall conform to the requirements of, and shall have the effect of, a permit issued under this chapter. (Ord. 810 §6, 1998).

12.06.070 Appeal procedure

Any applicant shall have the right to appeal the denial of a permit to the city council. The denied applicant shall make the appeal within five days after receipt of the denial by filing a written notice with the city clerk and a copy of the notice with the city clerk. The city council shall act upon the appeal at the next regularly scheduled meeting following receipt of the notice of appeal. (Ord. 810 §7, 1998).

12.06.080 Contents of permit

Each permit shall state at least the following:

1) Starting and approximate ending time; and

2) The portions of the streets that may be occupied by the activity requiring a permit. (Ord. 810 §8, 1998).

12.06.090 Duties of permittee

A permittee hereunder shall comply with all permit conditions and with all federal, state and local laws. (Ord. 810 §9, 1998).

12.06.100 Prohibitions and regulations

The following prohibitions and regulations shall apply to activities requiring a permit:

1) It is unlawful for any person in charge of, or responsible for the conduct of, a duly permitted activity requiring a permit to knowingly fail to comply with any condition of the permit.

2) No permit shall be issued for an activity to commence before seven a.m. and shall terminate prior to ten p.m.

3) All parade participants shall assemble for the parade at the time and location designated in the parade permit and shall disperse from public property immediately after the conclusion of the parade.

4) The maximum time necessary for completion of the complete activity requiring a permit may not exceed five hours. City street setup and dispersement including barricades shall not be included in the five-hour activity time limit. (Ord. 810 §10, 1998).

12.06.110 Violation – Penalties

Any person who violates or fails to comply with any of the provisions of this chapter or who, having obtained a permit hereunder, willfully fails to continue to comply with the conditions set

forth in this chapter is guilty of a misdemeanor, and upon conviction thereof, may be fined in accordance with state statutes. (Ord. 810 §11, 1998).

12.06.120 Emergency cancellation/termination

The chief of police may order an activity requiring a permit to terminate and disperse in the event of a natural calamity or in the event public peace is breached and/or life and/or property is in eminent danger. (Ord. 810 §12, 1998).

12.06.130 Severability

The provisions of this chapter are severable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutional or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this chapter or their application to other persons or circumstances. It is declared to be the legislative intent that this chapter would have been adopted if such illegal, invalid or unconstitutional provision, clause sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the chapter or part thereof is held inapplicable had been specifically exempt therefrom. (Ord. 810 §15, 1998).

TITLE 13 WATER AND WASTEWATER

Title 13 sets forth the regulations, requirements and enforcement provisions concerning the City's water and sewers.

For statutory provisions allowing cities to create, develop, maintain and operate domestic water systems, see Idaho Code §50-323; for provisions giving cities control of sewers and drains within their jurisdiction, see Idaho Code §50-332; for provisions giving cities the power to establish, operate, maintain and collect fees or charges for water and sewer systems, see Idaho Code §50-1030.

CHAPTER 13.01 WATER REGULATIONS

13.01.010 Water system – Authority of Mayor and City Council

The water system for the supply of the city shall be under the sole and exclusive control of the mayor and city council, who may from time to time direct the construction of such works, placing of mains, service pipes and fire hydrants as the necessities of the city may require. (Ord. 110 §1, 1907).

13.01.020 Superintendent of the waterworks – Powers and duties

The superintendent of the city waterworks shall, under the directions of the mayor and city council, have charge of such works, mains, pipes and hydrants and of the putting in of all service pipes, shall regulate the water supply to fire hydrants and all water consumed, and shall report to the mayor and city council quarterly, or as often as required, the condition of the waterworks and make such suggestions as the nature of the service may require. (Ord. 110 §2, 1907).

13.01.030 Access for examination of apparatus – Penalty for violation of regulations

Free access at all reasonable hours shall be allowed the superintendent of waterworks or mayor, city clerk-treasurer or committee from the city council, to all places supplied with water, to examine the apparatus, the amount used and the manner of using same. Any water user violating any of the rules and regulations controlling the water supply shall forfeit all payments made and the right to the use of water. (Ord. 110 §17, 1907).

13.01.040 Service pipe – Stopcock and key box required

For each service pipe there shall be attached at the inside line of the curb a stopcock and key box, which shall be paid for by the water consumer and be under the exclusive control of the superintendent. (Ord. 110 §7, 1907).

13.01.050 Service pipe – Material specifications – Permit required for extensions

All service and other pipes used underground shall be of cast iron, galvanized iron, extra strong lead or tin-lined lead (except private pipes where the city council authorizes the use of special material), laid not less than four feet below the surface of the ground, and of sufficient strength

to stand the water pressure. All work upon and alterations to or extensions of water pipes and size of pipes shall be to the acceptance of the superintendent. No extension of service pipes shall be made without first obtaining a permit therefore from the superintendent, for which permit there shall be paid the sum of one dollar. No extension shall be made to another water taker from the same service pipe without a stopcock and key box being attached at the junction of such service pipe. (Ord. 110 §8, 1907).

13.01.060 Service pipe and other apparatus – Maintenance responsibility and repair restrictions

All water users shall keep their service pipes, connections and other apparatus in good repair and protected from frost at their own expense, but no person, except under the direction of the superintendent, shall be allowed to dig into the street or sidewalk for the purpose of laying, removing or repairing any service pipe. (Ord. 110 §10, 1907).

13.01.070 Water use restrictions in areas where water mains are installed

Whenever the water mains are laid, no person shall be allowed to convey the water of the city from any ditch or place by private pipes for fountains, mechanical or other purposes except the ordinary irrigation of lots under the direction of the superintendent, nor shall the water be diverted from the ordinary irrigation ditches for the supply of steam boilers or other purposes. (Ord. 110 §19, 1907).

13.01.080 Water main charge

1) Hereafter, any person, firm, corporation or entity, before obtaining a permit to connect to any water main constructed substantially at city expense, shall pay a water main charge therefore at the rate of ten dollars per lineal foot of property abutting either side of the water line. This water main charge shall be in addition to all other hookup fees or charges required by the city. All water mains owned by the city shall be deemed to have been constructed substantially at city expense, except those mains constructed within recently platted and improved subdivisions where the permittee can establish to the satisfaction of the city that the water main was not constructed substantially at city expense.

   If the city places stub-outs from a main sewer or water line accessible to an owner's property, the property owner shall reimburse the city for the cost of said stub-out when the property owner obtains a permit to hook-up to a city sewer or water line.
2) From and after passage of the ordinance codified in this section, all future water main fees and sewer main fees shall be reviewed annually and set by resolution of the city council. (Ord. 760 §§1, 2, 4, 1994).

13.01.090 Fire hydrants – Access and repair restrictions

All public fire hydrants shall be kept in repair by the superintendent of waterworks, and in case of fire the members of the fire department and such other persons as the superintendent shall authorize, shall have access to the hydrant. No other persons shall open or operate any fire hydrants, or attempt to draw water therefrom, or obstruct the approach thereto. (Ord. 110 §3, 1907).

13.01.100 Fire hydrants – Wrenches – Use restrictions

Wrenches for fire hydrants shall be furnished by the chief of emergency services for the use of the members of the fire department, and to such other persons as he may deem proper, and any officer or member of the fire department or other person having charge of one or more of the wrenches who shall permit the same to be taken from their place of deposit, or to be used for any other purpose than that authorized by the chief of emergency services, shall be liable to a fine of not exceeding fifty dollars for each offense, besides costs. (Ord. 110 §5, 1907).

13.01.110 Fire hydrants – Unauthorized use and willful damage prohibited

Any person who shall willfully or carelessly run any vehicle against a fire hydrant or hitch any animal to same, or draw or attempt to draw water therefrom, shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine in any sum not to exceed one hundred dollars and costs, and be liable for all damages done to said hydrant. (Ord. 110 §4, 1907).

13.01.120 Public use of a fire hydrant and fees associated

1) In order to prevent possible contamination from back flow of the Rexburg City water system, any person or entity desiring to obtain water from a Rexburg City fire hydrant must comply with the following:

    a) Obtain a written permit from Rexburg City Hall, 12 North Center, before attempting to take any water; and

    b) Take water only from the one filling station (fire hydrant) designated by the City Water Department; and

    c) Check out the back flow and metering device from the Water Department to be attached to the fire hydrant agreed upon between the City Water Department and the potential user; and

2) A deposit for the actual cost of the back flow meter will be required upon issuing the permit to buy water out of the City fire hydrant. The minimum deposit fee shall be $1,100; and

3) Any damage to or loss of the back flow meter by the permit requestor will cause the entire deposit to be paid to the City for the purpose of replacing the back flow meter or repairing the back flow meter to its original condition; and

4) The deposit will be refunded less $50.00 if the back flow meter is returned to the City Water Department without any damage to the fire hydrant or the back flow meter; and

5) The City Water Department will perform a final inspection to determine the final charges for the permit; and

6) Based upon the number of gallons taken as shown on the back flow metering device, the person or entity obtaining the water shall pay to the City the fee established by the City for the quantity of water taken at the rate set forth in Appendix 4; and

7) Any person or entity not complying with this Ordinance shall be assessed a penalty charge of $400.00, in addition to the normal charge for water taken.

8) A backflow meter can be purchased by the requestor of the permit for the purpose of measuring the water at the City's effective cost of the backflow meter; or the requestor can lease the backflow meter by paying a deposit of up to the cost of the backflow meter. (Ord. 935 §1-8, 2005).

13.01.130 Water supply limitations for animal troughs and other facilities

Watering troughs for animals shall not be allowed a constant flow of water, but shall only be allowed to use such quantity as shall supply the actual wants of the stock having access thereto; nor shall continuous streams of water be permitted to flow from hydrants, faucets or stops over wash basins, water closets or urinals, or from any other apparatus drawing water. (Ord. 110 §16, 1907).

13.01.140 Service – Application – Deposit requirements

With each and every application for water and sewer service to be supplied through the water and sewer systems of the city, there shall be deposited with the city clerk or city treasurer a sum in cash, the amount to be determined by resolution of the city council. Such deposits shall be held by the city so long as the service applied for is supplied by the city, and if and when the service is discontinued or terminated as to any water and/or sewer consumer or user, the amount of the deposit, less any amount owing the city for such water and/or sewer service, shall be refunded. (Ord. 629 §3, 1980: Ord. 322 §2, 1935: Ord. 317 §7, 1934).

13.01.150 Service – Application – Water meter deposit requirements – Clerk Treasurer duties

Whenever an application is made for water to be supplied through the city water-works system, it shall be the duty of the city clerk-treasurer to ascertain whether or not a meter has been installed to measure water supplied to the building or premises, and if so whether such meter has been paid for or not, and if not paid for whether there is on deposit with the city clerk-treasurer the amount required by the provisions of Sections 13.02.030 and 13.02.040 of this code; and if the amount required by the provisions cited above is not on deposit, then to require that such deposit be made before accepting such application. The city superintendent of waterworks shall not turn on the water for use in any building or on any premises, or for any purpose whatsoever, until he shall have received notice from the city clerk--treasurer that the requirements of this chapter have been complied with. (Ord. 317 §2, 1934).

13.01.160 Service – Classifications designated

Applicants for the use of water on premises and buildings whereon water is supplied are classified, for the purpose of fixing rates and charges for water supplied through the city waterworks system, into five classes, as follows:

Class One. Residences and dwelling houses having only one apartment and occupied by only one family, and not used for or connected with any kind of business for profit;

1) Class Two. Apartment houses, including dwelling houses containing more than one apartment or occupied by more than one family, supplied through one meter, and not used for or connected with any kind of business for profit;

2) Class Three. Businesses, including building and construction work, dairies, stockyards, and all other places where any business, trade, occupation or enterprise of any kind or character is carried on for profit;

3) Class Four. Churches, seminaries, schools (public or private), and public libraries;

4) Class Five. Indigents and poor persons. (Ord. 317 §4, 1934).

13.01.170 Service – Water user charges

Commencing September 1, 1993, the water user charges shall, as a minimum, be reviewed annually and updated by resolution of the city council to reflect actual costs of operation, maintenance, replacement and financing of the city water system. (Ord. 749 §1, 1993: Ord. 555 §1, 1974: Ord. 401 §1, 1956: Ord. 399 §1, 1956: Ord. 322 §1, 1935: Ord. 317 §6, 1934: Ord. 309 §3, 1931).

13.01.180 Service – Meter rental charges

To each and every one of the classified users set forth in Section 13.01.160 above, there shall be added monthly the amount provided in Sections 13.02.030 and 13.02.040 of this code for meter rental and service charges, when such rental and service charges should be applied, pursuant to the provisions of such sections. (Ord. 555 §2, 1974).

13.01.190 Service – Rates and charges – Monthly statement

It shall be the duty of the city clerk-treasurer to prepare and send by United States mail to every owner of property, or to the agent or tenant of the owner of property whereon water is furnished, as directed in the application filed with the clerk--treasurer, on the first day of each month, a written statement showing the charges for monthly service and water used, which statement in each case where no meter is in use shall show the charges for the ensuing month according to the rates provided in Section 13.01.170, and in each case where a meter is used said statement shall show the charges for the month immediately passed, according to the rates set forth in Section 13.01.170 of this chapter. (Ord. 309 §5, 1931).

13.01.200 Service – Rates and charges – Payment delinquency qualifications – Penalties

If any bill, charge or account for services or water furnished is not paid within thirty days after the service of the statement thereof as provided in Section 13.01.190, the city clerk-treasurer shall notify the superintendent of waterworks of such delinquency, and it shall be the duty of the superintendent of waterworks to immediately shut off the water supplied to the property in respect to which such delinquency exists; when water has been so shut off it shall not be turned on again until all delinquent charges plus penalties have been paid. (Ord. 309 §6, 1931).

13.01.210 Using water after turnoff for nonpayment of rates – Penalty

If any person, after the water has been turned off from his premises on account of nonpayment of rates or other violations of the rules and regulations pertaining to the water supply, shall turn on or permit the water to be turned on, or use or permit the water to be used without authority, he shall on conviction thereof be fined not exceeding fifty dollars for each offense. (Ord. 110 §13, 1907).

13.01.220 Unlawful uses of water or appurtenances designated – Penalty

Any person who, by himself, family, servants or agents, shall use the water running through the water mains without paying first therefore, as provided in this chapter, or who shall, without authority, open any stopcocks, valves or other fixtures attached to the system of water supply, or who shall in any way injure, deface or impair any part or appurtenance of the waterworks, or who shall cast anything into any tank or reservoir belonging to the water-works, or in any manner obstruct the same, shall be punished by a fine not exceeding one hundred dollars for each offense or by imprisonment in the city jail not exceeding sixty days or by both such fine and imprisonment. (Ord. 110 §12, 1907).

13.01.230 Wasting water prohibited – Penalty

If any water user wastes water, or allows it to be wasted by imperfect water stops, valves, leaky joints or pipes, or runs water through basins or other apparatus, or uses the water for any other purposes than those for which they have paid, or uses water in violation of the rules and regulations controlling the water supply and the provisions of this chapter, he shall be liable to a fine of not to exceed twenty-five dollars for each offense, and the water may be cut off from such water users and all payment forfeited, unless such persons shall promptly pay such reasonable charges as may be charged therefore by the superintendent. (Ord. 110 §11, 1907).

13.01.240 Liability limitations

The city corporation shall not be held liable for damages to any water user by reason of a stoppage or other interruption of the water supply caused by a scarcity of water, accident to works or mains, alterations, additions, repairs or from other unavoidable causes. (Ord. 110 §18, 1907).

13.01.250 Changes to or amendment of chapter provisions – City Council authority

Nothing contained in this chapter shall prohibit the city council from amending, altering or adding to the provisions of this chapter in relation to the water supply, or the rules of same which may be adopted in conformity therewith, provided that no alteration in water rates shall apply to any charge upon or contract made with a water user under this chapter until after the expiration of the time for which such charge was made or contract entered into. (Ord. 110 §25, 1907).

CHAPTER 13.02 WATER METERS

13.02.010 Purpose – Installation requirements generally

It is the purpose and policy of the city to require that meters be installed for the measuring of water by gallons to all users of water who are served by the city waterworks system, and that such meters be installed by or under the supervision of the superintendent of waterworks. (Ord. 316 §1, 1934).

13.02.020 Specifications generally – Approval required

All water meters installed in pursuance of the provisions of this chapter shall be of standard types and qualities and of makes and kinds approved by the mayor and city council, and no meter of any kind shall be placed, installed in or connected with the waterworks system that has not been so approved. Each meter shall be of such size and capacity as will deliver the quantity of water required to supply the needs of the user to be served thereby. (Ord. 316 §3, 1934).

13.02.030 City to supply meters – Installation costs – Deposit requirements

The city shall purchase meters for installation in pursuance of this chapter in quantities to meet the requirements of such work, and shall supply them to property owners or water users as required for installation as provided in this chapter at the cost thereof to the city plus the cost and expenses of installation, in each case, and such cost, price and expense of installation shall be due from the water user or owner of the property whereon same is installed to the city clerk--treasurer as soon as the meter is installed and before water is turned on for use on such property. If such charges are not so paid then the owner of the property or occupant thereof shall be required to make a cash deposit with the city clerk--treasurer before the water is turned on.

13.02.040 Location requirements

In all cases where practicable, meters shall be placed on or immediately next to the line dividing the private property from the public street, and all meters shall be placed in suitable boxes and at sufficient depth in the ground to afford protection from injury by frost and other external causes. Meters shall be kept sealed, and all boxes shall be kept locked with substantial locks, and the keys to such locks shall be kept by the city or its officers or employees; provided, a meter may be placed in the basement or cellar of a building wherein water is to be used, if sufficiently protected against freezing and other injury, if the superintendent of waterworks or his assistants may have free access thereto for reading and other services; and provided further that there is no tap or other means of drawing water between the meter and the city main. (Ord. 316 §5, 1934).

13.02.050 Access requirements – Superintendent of waterworks authority

The city superintendent of water – works shall have access to all property buildings wherein meters have been placed for reading, repairs and other service, at all reasonable times, and if admittance to any property or building is denied to the superintendent of waterworks or his assistants, for any of such purposes, such denial shall constitute sufficient cause for shutting off the water from such property and building, and it shall be the duty of the superintendent of waterworks in any such case to immediately shut off such water. (Ord. 316 §6, 1934).

13.02.060 Disconnection and removal authorization – Report required

It is unlawful for any person, except the superintendent of waterworks or his assistant, to remove, disconnect or in any manner disturb or break the seal of any water meter installed in or connected with the city water-works system, except as otherwise provided in this section; provided, if any meter located in a basement or cellar is injured by freezing or other cause, such meter may be removed by any licensed plumber, with the consent of the superintendent of waterworks first obtained. Such plumber may reconnect the water lines in such case, and in every such case such plumber shall make a written report to the superintendent of waterworks within twenty-four hours after such meter is removed, stating the number of the meter, the number of the building in which it was installed, and the date and hour when same was removed, and such report shall be signed by the person who removed the meter. Any person who removes any meter except as herein provided shall be guilty of a misdemeanor, and any plumber who removes a meter and fails to make report thereof as herein provided shall be guilty of a misdemeanor, and any violation of the provisions of this section shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 316 §7, 1934).

13.02.070 Rental and service charges for meters not paid for – Private installation of meter permissions

1) Every user of water taken through a meter not paid for, or the owner of the property whereon same is installed, shall be charged and shall pay to the city a rental and service charge as set by the Mayor and City Council.

2) The rental and service charge shall be due and payable at the same time as the monthly charge for water is due, and as long as such user occupies the premises served by such meter. Upon such occupant removing from the premises, he shall be entitled to have the deposit returned to him if all rental and service charges and water dues have been paid; and if not, then the city clerk-treasurer shall withhold such amount as may be due the city; provided, any property owner or water user may install a meter on the premises owned or occupied by him at his own expense, but only under the supervision of the superintendent of waterworks; and provided further, that any such meter shall have been approved by the mayor and city council. (Ord. 316 §4(part), 1934).

13.02.080 Testing – Costs

Any meter may be removed and tested by the superintendent of waterworks at the request of the owner or occupant of the property served by such meter on the payment or deposit by such owner or occupant of the sum of three dollars to cover the charge of testing, and if such meter is found to be accurate within the limits of the guaranty of the manufacturer of the meter, the amount deposited shall be retained by the city. If such meter is found to be inaccurate beyond the limits of such guaranty, then the deposit shall be refunded, and the meter shall be corrected or another one installed; and in such case the water charges collected from the user served by such meter shall be adjusted on such terms as may appear to the waterworks committee to be just. (Ord. 316 §8, 1934).

13.02.090 Use of unmetered water restrictions

When a meter has been installed to measure water drawn from the city waterworks system for use on any premises, no water for any purposes shall be drawn for use on such premises except through such meter, and it is unlawful for any person to place or connect any pipes, tap, valve or other fixture or device in the waterworks system by means of which water may be drawn for use on such premises without passing through such meter, or to use any such pipe, tap, valve or other fixture or device for drawing water for use on such premises, and any person violating of the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 316 §9, 1934).

CHAPTER 13.03 WASTEWATER REGULATIONS

13.03.010 Private wastewater facilities – Discontinuance cleaning and filling requirements

It is unlawful for the owner or owners of any property within this city, or his, her or their agent or agents, or other person or persons having charge of or occupying such property, such property being located on any street, alley, court, passageway or area, and within one hundred fifty feet of a sewer along any street or alley of this city, to neglect or refuse, for the period of thirty days after notice from the board of health of this city, to discontinue the use of, clean out, disinfect and fill up all privy vaults and cesspools on such property, or to neglect or refuse for such period after such notice to remove all outside closets on such property. (Ord. 248 §6, 1920).

13.03.020 Connection to public sewer – Authorized personnel required – Accountability

It is unlawful for any person to connect any drain or sewer pipe with the public sewer unless such person is a drain layer or plumber duly licensed by the city. The drain layer or plumber will be held strictly accountable to the city for any damage done in the prosecution of his work. (Ord. 248 §7, 1920).

13.03.030 Permit requirements – Posting

It is unlawful for any person to commence or to carry on the work of laying, repairing, altering or connecting any sewer pipe with the public sewer, without first having a permit to do so from the superintendent of sewers. Such permit must be on the grounds during the whole time the work is in progress, and must be exhibited to any person demanding to see it. (Ord. 248 §8, 1920).

13.03.040 Permit – Application – Fee – Issuance conditions

Applications for a permit for sewer connections for each user proposing to use such sewer must be made in writing by the owner of the premises or his authorized agent, and must be accompanied by a plan showing the cause of the connection, its size, and the size and location of all branches to be connected with it. The application and plan, together with the fee set by the Mayor and City Council, shall be deposited with the superintendent of sewers, which plan shall be examined by the superintendent of sewers. If in his judgment the carrying out of the plan will cause no injury to the street in which the sewer sought to be connected with is laid, or to the carrying out of improvements projected or which may thereafter be made on said street, or prejudicial to the interest of persons whose property has been or may thereafter be connected

with the sewer, and that the plan in all things does conform to the ordinances of this city, then the application to connect with the sewer will be granted, subject to the provisions of such ordinances. All sewer connections shall be put into line and grades designated by the city engineer, who shall prepare a plat of each connection and file such plat in his office. (Ord. 356 §1, 1946: Ord. 260 §1, 1920: Ord. 248 §9, 1920).

13.03.050 Permit – Compliance with certain plumbing regulations prerequisite to issuance

Permits to connect with the public sewer must not be issued unless the plumbing in the house or building to be connected is in accordance with the provisions of the building ordinance pertaining to plumbing, unless a special permit for such connection is granted by the superintendent of sewers. (Ord. 248 §18, 1920).

13.03.060 Permit – Revocation conditions

All permits for sewer connections shall be issued to the applicant therefore, and the city council may at any time revoke a permit for defective work or other cause, or upon request of the person at whose instance the permit is issued. (Ord. 248 §10, 1920).

13.03.070 Manholes – Opening prohibited – Exception

It is unlawful for any person to open any sewer manhole without the permission of the superintendent of the sewers. (Ord. 248 §5, 1920).

13.03.080 Prohibited discharges – Garbage or other obstructions

It is unlawful for any person to empty or discharge into the public sewers any night soil, garbage or other similar matter or thing likely to obstruct the sewer. (Ord. 248 §4, 1920).

13.03.090 Injuring sewers or appurtenances prohibited

It is unlawful for any person to willfully injure, break or remove any part or portion of any sewer or any sewer appliance or appurtenance. (Ord. 248 §3, 1920).

13.03.100 Violation – Penalty

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 248 §19, 1920).

ARTICLE I GENERAL PROVISIONS

13.03.110 Purpose and policy

1) The objectives of this chapter are:

    a) To prevent the introduction of pollutants into the POTW (publicly owned treatment works) that will interfere with the operation of the POTW;

a) To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;

b) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

c) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

d) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;

2) This chapter shall apply to all users of the POTW. The chapter authorizes the issuance of industrial wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Ord. 800 §1.1, 1997).

13.03.120 Administration

Except as otherwise provided herein, the superintendent shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the superintendent may be delegated by the superintendent to other city personnel. (Ord. 800 §1.2, 1997).

13.03.130 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

1) Act or the Act: means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

2) Applicable pretreatment standards: means for any specified pollutant, city prohibitive standards, city specific pretreatment standards (local limits), state of Idaho pretreatment standards, or EPA's categorical pretreatment standards (when effective), whichever standard is appropriate or most stringent.

3) Approval authority: means the regional administrator of EPA region 10.

4) Authorized representative of the user:

a) If the user is a corporation

i) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or.

ii) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

a) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

b) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

c) The individuals described in this definition may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

5) Biochemical oxygen demand (BOD): means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees centigrade, usually expressed as a concentration milligrams per liter (mg/).

6) Categorical pretreatment standard or categorical standard: means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

7) Categorical user: means a user covered by one of EPA's categorical pretreatment standards.

8) City: means the city of Rexburg or the city council of Rexburg.

9) Cooling water/non-contact cooling water: means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

10) Color: means the optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.

11) Composite sample: means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

12) Domestic user (residential user): means any person who contributes, causes or allows the contribution of wastewater into the city POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit

typically include up to one hundred gallons per capita per day, 0.2 pounds of BOD per capita, and 0.17 pounds of TSS per capita.

13) Environmental Protection Agency (EPA): means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of such agency.

14) Existing source. For a categorical industrial user, an "existing source" is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

15) Existing user. For noncategorical users, an "existing user" is defined as any user which is discharging wastewater prior to the effective date of the ordinance codified in this chapter or include a specific date such as the date the code will become effective.

16) Grab sample: means a sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

17) Industrial wastewater discharge permit (IWDP, discharge permit): means an authorization or equivalent control document issued by the city to the users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this chapter.

18) Indirect discharge or discharge: means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches and all constructed devices and appliances appurtenant thereto.

19) Interference: means a discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its sludge processes, use or disposal; or (3) is a cause of a violation of the city's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

20) Maximum allowable discharge limit: means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

21) Medical wastes: means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

22) New source: means:

a) Any building, structure, facility or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of this definition but otherwise alters, replaces or adds to existing process or production equipment.

c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

i) Begun, or caused to begin as part of a continuous onsite construction program:

(1) Any placement, assembly or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

ii) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this subdivision.

23) New user. A "new user" is not a "new-source" and is defined as a user that applies to the city for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the city's collection system after the effective date of the ordinance codified in this chapter or include a specific date such as the date the code will become effective. Any person that buys an existing facility that is discharging nondomestic wastewater will be considered an "existing user" if no significant changes are made in the manufacturing operation.

24) Pass through: means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

25) Permittee: means a person or user issued an industrial wastewater discharge permit.

26) Person: means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents or assigns. This definition includes all federal, state or local governmental entities.

27) pH: means a measure of the acidity or alkalinity of a substance, expressed in standard units.

28) Pollutant: means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater i.e., pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity or odor.

29) Pretreatment: means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).

30) Pretreatment requirements: means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

31) Pretreatment standards or standards: means prohibited discharge standards, categorical pretreatment standards and local limits established by the city/POTW.

32) Prohibited discharge standards or prohibited discharges: means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 13.03.160(1) and (2) of this chapter.

33) Publicly owned treatment works (POTW): means a "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the city. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the city.

34) Septic tank waste: means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers and septic tanks.

35) Sewage: means human excrement and gray water (household showers, dishwashing operations, etc.)

36) Sewer: means any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

37) Shall, May. "Shall" is mandatory, "may" is permissive.

38) Significant industrial user (SIU): means:

a) A user subject to categorical pretreatment standards; or

b) A user that:

i) Discharges an average of twenty-five thousand gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); or

ii) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

iii) Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

c) Upon a finding that a user meeting the criteria in this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 40 CFR 403.8(f) (6) determine that such user should not be considered a significant industrial user.

39) Slug load: means any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Sections 13.03.160 through 13.03.190 of this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

40) Standard Industrial Classification (SIC) Code: means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

41) Stormwater: means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.

42) Superintendent: means the person designated by the city to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

43) Total suspended solids: means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

44) Toxic pollutant: means one of one hundred twenty-six pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.

45) Treatment plant effluent: means the discharge from the POTW into waters of the United States.

46) User or Industrial user: means a source of indirect discharge. The source shall not include "domestic user" as defined in this section.

47) Wastewater: means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

48) Wastewater treatment plant or treatment plant: means that portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

49) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use. (Ord. 800 §1.3, 1997).

13.03.140 Abbreviations

The following abbreviations shall have the designated meanings:

ASPP--Accidental Spill Prevention Plan

BOD--Biochemical oxygen demand

CFR--Code of Federal Regulations

COD--Chemical oxygen demand

EPA--U.S. Environmental Protection Agency

gpd--Gallons per day

L--Liter

LEL--Lower explosive limit

mg--Milligrams

mg/l--Milligrams per liter

NPDES--National Pollutant Discharge Elimination System

O&M--Operation and maintenance

POTW--Publicly owned treatment works

RCRA--Resource Conservation and Recovery Act

SIC--Standard industrial classifications

SWDA--Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)

TSS--Total suspended solids

U.S.C.--United States Code (Ord. 800 §1.4, 1997)

13.03.150 Confidential information

Information and data on a user obtained from reports, surveys, data disclosure forms, industrial wastewater discharge permits, and monitoring programs, and from city inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Ord. 800 §7, 1997).

ARTICLE II GENERAL REQUIREMENTS

13.03.160 Prohibited discharge standards

1) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

2) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

   a) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (sixty degrees Centigrade) using the test methods specified in 40 CFR 261.21.

   b) Wastewater having a pH less than 5.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment.

   c) Solid or viscous substances which will cause obstruction of the flow in the POTW resulting in interference;

   d) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

   e) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degree Fahrenheit (forty degrees Centigrade) unless the approval authority, upon the request of the POTW, approves alternate temperature limits;

   f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

   g) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

   h) Trucked or hauled pollutants, except at discharge points designated by the city;

   i) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

   j) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently

imparts color to the treatment plant's effluent, thereby violating the city's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent from the seasonably established norm for aquatic life;

k) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the superintendent in compliance with applicable state or federal regulations;

l) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water and unpolluted wastewater, unless specifically authorized by the superintendent;

m) Any sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;

n) Medical wastes, except as specifically authorized by the superintendent;

o) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

p) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

q) Any liquid, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five percent nor any single reading over ten percent of the lower explosive limit (LEL) of the meter;

r) Grease, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;

s) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits;

t) Any wastewater, which in the opinion of the superintendent can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the superintendent (except that no special waiver shall be given from categorical pretreatment standards).

u) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless such person

has first obtained testing and approval as may be generally required by the city and paid all fees assessed for the privilege of such discharge.

v) Any hazardous wastes as defined in rules published by the state of Idaho or in EPA rules 40 CFR Part 261;

w) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA).

A. Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Ord. 800 §2.1, 1997).

13.03.170 Federal categorical pretreatment standards

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. (Ord. 800 §2.2, 1997).

13.03.180 State requirements

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this chapter or other applicable ordinance. (Ord. 800 §2.3, 1997).

13.03.190 Local limits

1) The following pollutant limits are established to protect against the possible pass through of certain pollutants and operational interference of the treatment process. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits:
   0.477 mg/l arsenic
   0.26 mg/l cadmium
   1.7100 mg/l chromium
   2.07 mg/l copper
   0.33 mg/l cyanide
   0.32 mg/l lead
   0.0041 mg/l mercury
   3.98 mg/l nickel
   125 mg/l oil and grease (petroleum and vegetable based)
   0.35 mg/l silver
   1.69 mg/l zinc
   pH > 5.0 to < 9.0

2) The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. The superintendent may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a user is subject to a categorical pretreatment

standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. (Ord. 936 §2.4, 2005).

13.03.200 City's right of revision

The city reserves the right to establish, by ordinance or in industrial wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. (Ord. 800 §2.5, 1997).

13.03.210 Special agreement with users

The city reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the approval authority in accordance with 40 CFR 403.13. (Ord. 800 §2.6, 1997).

13.03.220 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The superintendent may impose mass limitations on users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Ord. 800 §2.7, 1997).

13.03.230 Pretreatment facilities

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the state, or the superintendent, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the city for review, and shall be acceptable to the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the city under the provisions of this chapter. (Ord. 800 §2.8, 1997).

13.03.240 Deadline for compliance with applicable pretreatment requirements

1) Compliance by existing users (categorical users) covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. The city shall establish a final compliance deadline date for any existing user not covered by categorical pretreatment standards or for any categorical user when the local limits for such user are more restrictive than EPA's categorical pretreatment standards.

2) New source dischargers and "new users" are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed ninety days from the beginning of discharge). New sources and "new users" shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

3) Any industrial wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing user or a categorical user that must comply with a more stringent local limit, which is in noncompliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater discharge permit to insure compliance within the shortest time feasible. (Ord. 800 §2.9, 1997).

13.03.250 Additional pretreatment measures

1) Whenever deemed necessary, the superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

2) Grease, oil and sand interceptors shall be provided when, in the opinion of the superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at his expense.

3) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Ord. 800 §2.10, 1997).

13.03.260 Accidental discharge/slug control plans

The superintendent may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by the city, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the city for review and approval before implementation. The city shall determine which user is required to develop a plan and require such plan to be submitted within ninety days after notification by the city. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the city. Review and approval of such plans and operating procedures by the city shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this article.

1) Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

   a) Description of discharge practices, including nonroutine batch discharges;

   b) Description of stored chemicals;

   c) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 13.03.160 through 13.03.190;

   d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

2) Users shall notify the city wastewater treatment plant immediately upon the occurrence of a "slug" or "accidental discharge" of substances regulated by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the city on account thereof under state or federal law.

3) Within five days following an accidental discharge, the user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.

4) Signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures. (Ord. 800 §2.11, 1997).

13.03.270 Septic tank wastes

1) Septic tank waste may be introduced into the POTW only at locations established by the Superintendent. Such wastes shall not violate any Section of this ordinance or any other requirements established or adopted by the City. Any/All septage haulers shall seek prior approval before dumping any waste into the city=s system, as set forth in this SEWER USE ORDINANCE #800, and its requirements.

2) Septage haulers may only discharge loads at locations specifically designated by the POTW. The POTW staff may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The POTW staff may require the hauler to provide an analysis of any load prior to discharge.

3) Septage haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, Health Department permit number, truck identification, sources of waste, volume and characteristics of the waste.

4) Fees for treating hauled wastes are set forth in Appendix 4. The City may increase these fees if it has been deemed necessary. (Ord. 936 §2.12, 2005).

ARTICLE III INDUSTRIAL WASTEWATER DISCHARGE PERMIT

13.03.280 Permit requirements

1) No significant industrial user shall discharge wastewater into the POTW without first obtaining an industrial wastewater discharge permit (IWDP) from the superintendent. Any violation of the terms and conditions of an IWDP shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining an industrial wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

2) The superintendent may require other users, including liquid waste haulers, to obtain an IWDP (as necessary) to carry out the purposes of this chapter. (Ord. 800 §3, 1997).

13.03.290 Permitting – Existing SIU

Any SIU that was discharging wastewater into the POTW prior to the effective date of the ordinance codified in this chapter and that wishes to continue such discharges in the future shall, within sixty days after notification by the superintendent submit a data disclosure form to the city in accordance with Section 13.03.320, and shall not cause or allow discharges to the POTW to continue after three months (one hundred eighty days) of the effective date of the ordinance codified in this chapter except in accordance with an industrial wastewater discharge permit issued by the superintendent. The city's notification to SIUs covered by categorical pretreatment standards will be in ample time to insure that the SIUs comply with the one hundred eighty-day submittal deadline date established in 40 CFR Section 403.12(b). (Ord. 800 §3.1, 1997).

13.03.300 Permitting – New source and new user

At least ninety days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and new users considered by the city to fit the definition of SIU, shall apply for an IWDP and will be required to submit to the city at least the information listed in subsections (a) through (e) of Section 13.03.320. A new source or new user cannot discharge without first receiving an industrial wastewater discharge permit from the city. New sources and new users shall also be required to

include in their data disclosure form information on the method of pretreatment the user intends to use to meet applicable pretreatment standards. New sources and new users shall give estimates of the information requested in subsections (d) and (e) of Section 13.03.320. (Ord. 800 §3.2, 1997).

13.03.310 Wastewater discharge permitting – Extra jurisdictional users

Any existing user located beyond the city limits required to obtain an industrial wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 13.03.290. New source and new users located beyond the city limits required to obtain a wastewater discharge permit shall comply with Section 13.03.300. (Ord. 800 §3.3, 1997).

13.03.320 Data disclosure form contents

1) All users required to obtain an industrial wastewater discharge permit must submit, at a minimum, the following information. The superintendent shall approve a form to be used as a data disclosure form. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b).

    a) Identifying Information. The user shall submit the name and address of the facility including the name of the operator and owners;

    b) Permits. The user shall submit a list of any environmental control permits held by or for the facility;

    c) Description of Operations. The user shall submit a brief description of the nature, average rate of production and standard industrial classification of the operation(s) carried out by such industrial user, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

    d) Flow Measurement.

        i) Categorical User: The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

            (1) Regulated or manufacturing process streams; and

            (2) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

i) Noncategorical User: The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following: total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the superintendent.

(1) The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

e) Measurements of Pollutants.

i) Categorical User.

(1) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

(2) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the categorical pretreatment standard or as required by the city of regulated pollutants (including standards contained in Sections 13.03.160 through 13.03.190, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Article V.

(3) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

(4) Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the data disclosure form.

ii) Noncategorical User.

(1) The user shall identify the applicable pretreatment standards for its wastewater discharge.

(2) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the city) of regulated pollutants contained in Sections 13.03.160 through 13.03.190

(3) , as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Article V.

(4) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this subsection.

(5) Where the superintendent developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the data disclosure form.

f) Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in Section 13.03.330, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements;

g) Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment and/or O and M. The user's schedule shall conform with the requirements of Section 13.03.450. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 13.03.240 of this chapter.

i) Where the user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by this subsection, the information required by subsection (F) and (G) of this section shall pertain to the modified limits.

ii) If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the user submits the report required by (f) and (g) of this section shall be submitted by the user within sixty days after the modified limit is approved.

Any other information as may be deemed necessary by the superintendent to evaluate the data disclosure form.

2) Incomplete or inaccurate data disclosure forms will not be processed and will be returned to the user for revision. (Ord. 800 §3.4, 1997).

13.03.330 Signatory and certification requirement

All data disclosure forms and user reports must be signed by an authorized representative of the user and contain the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate,

and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. (Ord. 800 §3.5, 1997).

13.03.340 Permit decisions

The superintendent will evaluate the data furnished by the user and may require additional information. Within one month (thirty days) of receipt of a complete data disclosure form, the superintendent will determine whether or not to issue an industrial wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty days of full evaluation and acceptance of the data furnished. The superintendent may deny any data disclosure form for an industrial wastewater discharge permit. (Ord. 800 §3.6, 1997).

13.03.350 Permit contents

Industrial wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

1) Industrial wastewater discharge permits must contain the following conditions:

    a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

    b) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the city, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

    c) Applicable pretreatment standards and requirements, including any special state requirements;

    d) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state and local law;

    e) Requirement for immediate notification to the city where self-monitoring results indicate noncompliance;

    f) Requirement to report a bypass or upset of a pretreatment facility;

    g) Requirement for the SIU who reports noncompliance to repeat the sampling and analysis and submit results to the city within thirty days after becoming aware of the violation;

    h) A statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.

2) Industrial wastewater discharge permits may contain, but need not be limited to, the following conditions:

   a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

   b) Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices, designed to reduce, eliminate or prevent the introduction of pollutants into the treatment works;

   c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or routine discharges;

   d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

   e) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

   f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;

   g) A statement that compliance with the industrial wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;

   h) Any special agreements the superintendent chooses to continue or develop between the city and user;

   i) Other conditions as deemed appropriate by the superintendent to ensure compliance with this chapter, and state and federal laws, rules and regulations. (Ord. 800 §3.7, 1997).

13.03.360 Permit appeals

Any person, including the user, may petition the city to reconsider the terms of an industrial wastewater discharge permit within one month (thirty days) of its issuance.

1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal

2) In its petition, the appealing party must indicate the industrial wastewater discharge permit provisions objected to, the reasons for this objection and the alternative condition, if any, it seeks to place in the industrial wastewater discharge permit.

3) The effectiveness of the industrial wastewater discharge permit shall not be stayed pending the appeal.

4) If the city fails to act within two months (sixty days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an industrial wastewater discharge permit, not to issue an industrial wastewater discharge permit, or not to modify an industrial wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Madison County 7th judicial district for jurisdiction within Madison counties and Sugar City, due to the multi-jurisdictional agreement. (Ord. 800 §3.8, 1997).

13.03.370 Permit duration

Industrial wastewater discharge permits shall be issued for a specified time period, not to exceed five years. An industrial wastewater discharge permit may be issued for a period less than five years, at the discretion of the superintendent. Each industrial wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. 800 §3.9, 1997).

13.03.380 Permit modification

The superintendent may modify the industrial wastewater discharge permit for good cause including, but not limited to, the following:

1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

2) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of the industrial wastewater discharge permit issuance;

3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

4) Information indicating that the permitted discharge poses a threat to the city's POTW, city personnel, or the receiving waters;

5) Violation of any terms or conditions of the industrial wastewater discharge permit;

6) Misrepresentations or failure to fully disclose all relevant facts in the data disclosure form or in any required reporting;

7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

8) To correct typographical or other errors in the industrial wastewater discharge permit; or

9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator. (Ord. 800 §3.10, 1997).

13.03.390 Permit transfer

1) Industrial wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least one month (thirty days) advance notice to the superintendent and the superintendent approves the industrial wastewater discharge permit transfer. The notice to the superintendent must include a written certification by the new owner and/or operator which:

    a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

    b) Identifies the specific date on which the transfer is to occur; and

    c) Acknowledges full responsibility for complying with the existing industrial wastewater discharge permit.

2) Failure to provide advance notice of a transfer renders the industrial wastewater discharge permit voidable as of the date of facility transfer

3) Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and be covered by the existing limits and requirements in the previous owner's permit. (Ord. 800 §3.11, 1997).

13.03.400 Permit revocation

1) Industrial wastewater discharge permits may be revoked for, but not limited to, the following reasons:

    a) Failure to notify the city of significant changes to the wastewater prior to the changed discharge;

    b) Failure to provide prior notification to the city of changed conditions;

    c) Misrepresentation or failure to fully disclose all relevant facts in the data disclosure form;

    d) Falsifying self-monitoring reports;

    e) Tampering with monitoring equipment;

    f) Refusing to allow the city timely access to the facility premises and records;

    g) Failure to meet discharge limitations;

    h) Failure to pay fines;

i) Failure to pay sewer charges;

j) Failure to meet compliance schedules;

k) Failure to complete a wastewater survey or the data disclosure form;

l) Failure to provide advance notice of the transfer of a permitted facility;

m) If the city has to invoke its emergency provision as cited in Section 13.03.670;

n) Violation of any pretreatment standard or requirement, or any terms of the industrial wastewater discharge permit or this chapter.

2) Industrial wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All industrial wastewater discharge permits issued to a particular user are void upon the issuance of a new industrial wastewater discharge permit to that user. (Ord. 800 §3.12, 1997).

13.03.410 Permit reissuance

A user, required to have an industrial wastewater discharge permit, shall apply for an industrial wastewater discharge permit reissuance by submitting a complete data disclosure form, in accordance with Section 13.03.320, a minimum of three months (one hundred eighty days) prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing industrial wastewater discharge permit has expired and has submitted its reapplication in the time period specified in this section, shall be deemed to have an effective industrial wastewater discharge permit until the city issues or denies the new industrial wastewater discharge permit. A user, whose existing industrial wastewater discharge permit has expired and who failed to submit its reapplication in the time period specified in this section, will be deemed to be discharging without an industrial wastewater discharge permit. (Ord. 800 §3.13, 1997).

ARTICLE IV REPORTING REQUIREMENTS

13.03.420 Baseline monitoring reports

1) Within either one hundred eighty days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4) (whichever is later) existing categorical users currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the city a report which contains the information listed in subsection (2) of this section. At least ninety days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the city a report which contains the information listed in subsection (2) of this section. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.

2) Users described in subsection (1) of this section shall submit the information set forth below.

a) Identifying Information. The name and address of the facility, including the name of the operator and owner;

b) Environmental Permits. A list of any environmental control permits held by or for the facility;

c) Description of Operations. A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

d) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e);

e) Measurement of Pollutants.

i) The categorical pretreatment standards applicable to each regulated process;

ii) The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or by the city) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article V. of this chapter;

iii) Sampling must be performed in accordance with procedures set out in Article V. of this chapter;

f) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment, is required to meet the pretreatment standards and requirements;

g) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 13.03.450 of this chapter;

h) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 13.03.330 of this chapter. (Ord. 800 §4.1, 1997).

13.03.430 Final compliance report (initial compliance report)

1) Within ninety days following the date for final compliance by the significant industrial user with applicable pretreatment standards and requirements set forth in this chapter, in a wastewater discharge permit, or within thirty days following commencement of the introduction of wastewater into the POTW by a new source or new users considered by the city to fit the definition of SIU, the affected user shall submit to the city a report containing the information outlined in subsections (4) through (6) of Section 13.03.320.

2) For users subject to equivalent mass or concentration limits established by the city in accordance with procedures established in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. (Ord. 800 §4.2, 1997).

13.03.440 Periodic compliance report

1) Any user that is required to have an industrial wastewater discharge permit and performs self-monitoring shall submit to the city during the months of June and December, unless required on other dates or more frequently by the city, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial wastewater discharge permit. At a minimum, users shall sample their discharge at least twice per year.

2) The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations, and shall also include any additional information required by this chapter or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a user sampled and analyzed more frequently than what was required by the city or by this chapter, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

3) Any user subject to equivalent mass or concentration limits established by the city or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in Section 13.03.430(2).

4) If the city calculated limits to factor out dilution flows or nonregulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and nonregulated flows.

5) Flows shall be reported on the basis of actual measurement; provided, however, that the city may accept reports of average and maximum flows estimated by verifiable techniques if the city determines that an actual measurement is not feasible.

6) Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Article V.

7) The city may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor which is related to the operation and maintenance of the sewer system.

8) The city may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the city agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the city for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. The city is under no obligation to perform periodic compliance monitoring for a user. (Ord. 800 §4.3, 1997).

13.03.450 Compliance schedules for meeting applicable pretreatment standards

1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

2) No increment referred to in subsection (A) of this section shall exceed nine months.

3) Not later than fourteen days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the city including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports. (Ord. 800 §4.4, 1997).

13.03.460 Notification of significant production changes

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the city within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit. (Ord. 800 §4.5, 1997).

13.03.470 Hazardous waste notification

1) Any user that is discharging fifteen kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one-time notification in writing to the city, EPA Regional 10 Waste Management Division Director, Idaho State Hazardous Waste Division. Any existing user exempt from this notification, shall comply with the requirements contained herein within thirty days of becoming aware of a discharge of fifteen kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the city sewer system. Such notification shall include:

   a) The name of the hazardous waste as set forth in 40 CFR Part 261;

   b) The EPA hazardous waste number; and

   c) The type of discharge (continuous, batch, or other);

   d) If an industrial user discharges more than one hundred kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

      i) An identification of the hazardous constituents contained in the wastes,

      ii) An estimation of the mass and concentration of such constituents in the waste streams discharged during that calendar month, and

      iii) An estimation of the mass of constituents in the waste streams expected to be discharged during the following twelve months.

2) These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

3) Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the city of the discharge of such a substance within ninety days of the effective date of such regulations.

4) In the case of any notification made under this section, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical. (Ord. 800 §4.6, 1997).

13.03.480 Notice of potential problems, including accidental spills, slug loadings

Any user shall notify the city immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 13.03.410. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a "slug"

(or slugs) of pollutants shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the city under state or federal law. (Ord. 800 §4.7, 1997).

13.03.490 Noncompliance reporting

If sampling performed by a user indicates a violation, the user shall notify the city within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling within five days and submit the results of the repeat analysis to the city within thirty days after becoming aware of the violation, except the user is not required to resample if:

1) The city performs sampling at the user at a frequency of at least once per month, or

2) The city performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling. (Ord. 800 §4.8, 1997).

The city shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria: 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH;

3) Any other discharge violation that the city believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of city personnel or the general public);

4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

5) Failure to meet, within ninety days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;

6) Failure to provide within thirty days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;

7) Failure to accurately report noncompliance; or

8) Any other violation(s) which the city determines will adversely affect the operation or implementation of the local pretreatment program. (Ord. 800 §8, 1997).

13.03.500 Notification of changed discharge

All users shall promptly notify the city in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p). (Ord. 800 §4.9, 1997).

13.03.510 TTO reporting

Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTO's) discharged into the sewer system must follow the categorical pretreatment standards for that industry. Those users must also meet the following requirements:

1) Must sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);
1) No TTO's used at the facility or the user elects to develop a solvent management plan in lieu of continuously monitoring for TTO: The user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the city. (Ord. 800 §4.10, 1997).

13.03.520 Reports from unpermitted users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the city as the superintendent may require. (Ord. 800 §4.11, 1997).

13.03.530 Record keeping

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been specifically notified of a longer retention period by the superintendent. (Ord. 800 §4.12, 1997).

ARTICLE V SAMPLING AND ANALYTICAL REQUIREMENTS

13.03.540 Sampling requirements for users

1) A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. The superintendent will determine on a case-by-case whether the user will be able to composite the individual grab samples. For all other pollutants, twenty-four-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The city may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

2) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the city and contained in the user's industrial wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable categorical pretreatment standards. For other SIUs, for which the city has adjusted its local limits to factor out dilution flows, the user should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

3) All sample results shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed more frequently than what was required in its industrial wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report. (Ord. 800 §5.1, 1997).

13.03.550 Analytical requirements

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA. (Ord. 800 §5.2, 1997).

13.03.560 City monitoring of user's wastewater

The city will follow the same procedures as outlined in Sections 13.03.540 and 13.03.550. (Ord. 800 §5.3, 1997).

ARTICLE VI COMPLIANCE MONITORING

13.03.570 Inspection and sampling

The city shall have the right to enter the facilities of any user to ascertain whether the purpose of this chapter, and any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

2) The superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

3) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

4) Unreasonable delays in allowing the superintendent access to the user's premises shall be a violation of this chapter. (Ord. 800 §6.1, 1997).

13.03.580 Monitoring facilities

1) Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling and flow measurements of each sewer discharge to the city. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the city may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The superintendent, whenever applicable, may require the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, for a wastewater treatment system.

2) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

   All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

3) The superintendent may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy. (Ord. 800 §6.2, 1997).

13.03.590 Search warrants

If the superintendent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect as part of a routine inspection program of the city designed to verify compliance with this chapter or any industrial wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the superintendent shall seek issuance of a search and/or seizure warrant from the Madison County 7th judicial courthouse of Rexburg. Such warrant shall be served at reasonable hours by the superintendent in the company of a uniformed police officer for the city of Rexburg. (Ord. 800 §6.3, 1997).

13.03.600 Vandalism

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this chapter. (Ord. 800 §6.4, 1997).

ARTICLE VII ADMINISTRATIVE ENFORCEMENT REMEDIES

13.03.610 Notification of violation

When the superintendent finds that a user has violated (or continues to violate) any provision of this chapter, an industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may serve upon that user a written notice of violation via certified letter. Within five working days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the city to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (Ord. 800 §9.1, 1997).

13.03.620 Consent orders

The superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.03.640 and 13.03.650 and shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user. (Ord. 800 §9.2, 1997).

13.03.630 Show cause hearing

The superintendent may order via a certified letter a user which has violated or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five working days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. (Ord. 800 §9.3, 1997).

13.03.640 Compliance orders

When the superintendent finds that a user has violated or continues to violate any provision of this chapter, industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 800 §9.4, 1997).

13.03.650 Cease and desist orders

1) When the superintendent finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to.

    a) Immediately comply with all requirements; and

    b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

2) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 800 §9.5, 1997).

13.03.660 Administrative fines

1) When the superintendent finds that a user has violated or continues to violate any provision of this chapter, or industrial wastewater discharge permit, or order issued hereunder, or any

other pretreatment standard or requirement, the superintendent may fine such user an amount of at least two hundred fifty dollars per day and not more than one thousand dollars per day per violation. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

2) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 800 §9.6, 1997).

13.03.670 Emergency suspensions

1) The superintendent may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The superintendent may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

    a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the city that the period of endangerment has passed, unless the termination proceedings in Section 13.03.680 are initiated against the user.

    b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the superintendent prior to the date of any show cause or termination hearing under Sections 13.03.630 and 13.03.680.

2) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section. (Ord. 800 §9.7, 1997).

13.03.680 Termination of discharge (nonemergency)

1) In addition to the provisions in Section 13.03.400, any user that violates the following conditions is subject to discharge termination:

    a) Violation of an industrial wastewater discharge permit conditions;

    b) Failure to accurately report the wastewater constituents and characteristics of its discharge;

    c) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or

e) Violation of the pretreatment standards in Article II of this chapter.

2) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 13.03.630 of this chapter why the proposed action should not be taken. Exercise of this option by the city shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 800 §9.8, 1997).

ARTICLE VIII JUDICIAL ENFORCEMENT REMEDIES

13.03.690 Injunctive relief

When the superintendent finds that a user has violated (or continues to violate) any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may petition the Madison County 7th judicial courthouse through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the industrial wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The city may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. (Ord. 800 §10.1, 1997).

13.03.700 Civil penalties

1) A user which has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a civil penalty of at least two hundred fifty dollars per day, per violation, and shall not exceed one thousand dollars per day, per violation. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

2) The superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the.

3) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user. (Ord. 800 §10.2, 1997).

13.03.710 Criminal prosecution

1) A user which has willfully or negligently violated any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of at least two hundred fifty dollars per day, per violation not to exceed one thousand dollars per day, per violation or imprisonment.

2) A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least two hundred fifty dollars per day, per violation not to exceed one thousand dollars per day per violation, and/or be subject to imprisonment. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

3) A user which knowingly made any false statements, representations or certifications in any data disclosure form, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with or knowingly rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be punished by a fine of not more than one thousand dollars per violation per day, or imprisonment or both.

4) In the event of a second conviction, a user shall be punished by a fine of not more than one thousand dollars per day, per violation, or imprisonment. (Ord. 800 §10.3, 1997).

13.03.720 Remedies nonexclusive

The provisions in Article VIII through XI of this chapter are not exclusive remedies. The city reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the city's enforcement response plan. However, the city reserves the right to take other action against any user when the circumstances warrant. Further, the city is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently. (Ord. 800 §10.4, 1997).

ARTICLE IX SUPPLEMENTAL ENFORCEMENT ACTION

13.03.730 Performance bonds

The superintendent may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the city, in a sum not to exceed a value determined by the superintendent to be necessary to achieve consistent compliance. (Ord. 800 §11.1, 1997).

13.03.740 Liability insurance

The superintendent may decline to issue or reissue an industrial wastewater discharge permit to any user which has failed to comply with any provision of this chapter, a previous industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge. (Ord. 800 §11.2, 1997).

13.03.750 Water supply severance

Whenever a user has violated or continues to violate any provision of this chapter, or industrial wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. (Ord. 800 §11.3, 1997).

13.03.760 Contractor listing

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the city. Existing contracts for the sale of goods or services to the city held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the city. (Ord. 800 §11.4, 1997).

ARTICLE X AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.03.770 Defining “upset”

1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

   An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of subsection (C) of this section are met.
2) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

   a) An upset occurred and the user can identify the cause(s) of the upset;

   b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

c) The user has submitted the following information to the POTW and treatment plant operator within twenty-four hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five days:

i) A description of the indirect discharge and cause of noncompliance;

ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

3) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

4) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with applicable pretreatment standards.

5) Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails. (Ord. 800 §12.1, 1997).

13.03.780 Prohibited discharge standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Sections 13.03.160(A) and (B)(3) through (7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the city was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements. (Ord. 800 §12.2, 1997).

13.03.790 Bypass

1) For the purposes of this section,

"Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

a) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

2) A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (C) and (D) of this section.

   a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten days before the date of the bypass, if possible.

   b) A user shall submit oral notice to the city of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The POTW may waive the written report on a case-by-case basis if the oral report has been received within twenty-four hours.

3)

   a) Bypass is prohibited, and the POTW may take an enforcement action against a user for a bypass, unless:

      i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

      ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

      iii) The user submitted notices as required under subsection (C) of this section.

   b) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in subsection (D)(1) of this section. (Ord. 800 §12.3, 1997).

13.03.800 Surcharge on excessive strength discharge

Wastewater discharges into the City's POTW that have an excessive strength of BOD or Total Suspended (TSS) shall be assessed a surcharge for the concentration of BOD and TSS above 200 mg/l.

EXAMPLE:
A wastewater flow of 10,000 gallons/day having 800 mg/l of BOD, the “excessive strength” quantity of BOD would be: 10,000 gal/day x (800 - 200 mg/l) x the number of days the sample represents x 8.34 lb/gal divided by 1,000,000 gal. The amount of excessive BOD for one day would be 10,000 x 600 x 8.34 / 1,000,000 or 50 pounds of BOD/day.

The surcharge costs for excessive strength wastes are set forth in Appendix 4:

All discharges into the City’s POTW with BOD and TSS strength in excess of 200 mg/l. will be assessed a surcharge costs as established by testing, and as established in any Industrial User Agreements. (Ord. 936 §12.4, 2005).

ARTICLE XI MISCELLANEOUS PROVISIONS

13.03.810 Pretreatment charges and fees

The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

1) The industrial users will be responsible for paying for its own facility's heavy metals testing and shipping;

2) Fees for a data disclosure form including the cost of processing such applications;

3) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

4) Fees for reviewing and responding to accidental discharge procedures and construction;

5) Fees for filing appeals; and

6) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the city. (Ord. 800 §13.1, 1997).

13.03.820 Severability

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. (Ord. 800 §13.2, 1997).

13.03.830 Conflicts

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter, are hereby repealed to the extent of the inconsistency or conflict. (Ord. 800 §13.3, 1997).

13.03.840 Surcharge on excessive strength discharge

Ordinance #772 on excessive strength discharge for BOD's in excess of two hundred mg/l, and TSS in excess of two hundred mg/l will be charged a fee of ($0.36 per pound BOD) and ($0.18 per pound TSS). Formula example as follows:

EXAMPLE:
A wastewater flow of ten thousand gallons/day having eight hundred mg/l of BOD, the "excessive strength" quantity of BOD would be: ten thousand gal/day × (800 mg/l - 200 mg/l (i.e., the assumed "normal quantity" of BOD discharged) × thirty days (number of days represented by the test sample) × 8.34 lbs/gal divided by one million gal.) = one thousand five hundred one lbs. of BOD. The "surcharge for excessive strength" for BOD would be one thousand five hundred one lbs of BOD × $0.36/lb. (The assumed rate per pound for "excessive strength" BOD) = $600.40. (Ord. 800 §13.4, 1997).

CHAPTER 13.04 WASTEWATER RATES AND CHARGES

13.04.010 User rates – Generally

This is a user charge system for a small community which follows model number one in Appendix B of the Federal Register, dated 9/27/78. This treatment works is primarily flow dependant and will utilize a winter time culinary water volume basis to establish sewer rates.
A sewer user charge shall be levied on all users of the sewage collection and treatment facilities to cover the actual or estimated cost of operation, maintenance, replacement and financing of this facility. The user charge system shall distribute these costs to each user in proportion to such user's contribution to the total wastewater load of such facilities. (Ord. 645 §3(part), 1982).

13.04.020 User rates – Basis

The sewer user rates for such user shall be based on a delivery flow rate determined by the size of the culinary water meter and the user's measured contribution to the total flow at the treatment facilities based on culinary water usage during October, November, December, January, February, March and April. (Ord. 645 §3 (part), 1982).

13.04.030 User rates – Surcharge for excessive strength

1) When any user contributes wastewater having an average biochemical oxygen demand (BOD) and/or total suspended solids (TSS) loading in excess of the maximum allowable normal limits as such are hereinafter designated by resolution of the city council, a surcharge for excessive strength shall be levied against such user. Said surcharge shall be based on the actual quantities of flow, biochemical oxygen demand (BOD) and total suspended solids (TSS) that are discharged into the wastewater system. The BOD and TSS loadings shall be determined from estimates or tests made by city officials or its designated agents.

2) The user's surcharge for excessive strength shall be computed as follows:

    a) The quantities of BOD and/or TSS that are in excess of the "normal" limits of BOD and/or TSS (as such are established by resolution of the city council) multiplied by the

surcharge rates for excessive strength (as such are established by resolution of the city council) multiplied by the number of days that each test sample of wastewater represents equals the user's surcharge for excessive strength for that time period

b) For example, assuming a wastewater flow of ten thousand gallons per day having eight hundred mg/l of BOD, the excessive strength quantity of BOD would be: 10,000 gal/day × (800 mg/l - 200 mg/l (i.e., the assumed normal quantity of BOD discharged)) × 30 days (number of days represented by the test sample) × (8.34 lbs. /gal divided by 1,000,000 gal.) = 1,501 lbs. of BOD.

c) The surcharge for excessive strength for BOD would be: 1,501 lbs. of BOD × $0.40/lb. (the assumed rate per pound for excessive strength BOD) = $600.40.

d) The charge for excessive total suspended solids (TSS) would be calculated in a like manner. The charge for the quantity of flow would be based upon the volume of waste-water discharged from the user's premises multiplied by the normal rate in cents per thousand gallons as such is established by the city council. The charge per pound for the excessive strength quantity of BOD or TSS shall be set by resolution of the city council. The surcharge for excessive strength shall be in addition to the normal charge for all wastewater loadings below the normal loadings of BOD or TSS as such are established by resolution of the city council.

e) A copy of the list of users surcharged, the characteristics of their sewage, and the surcharge for each shall be kept on file at all times in the office of the city clerk. (Ord. 772A §1, 1995: Ord. 645 §3(part), 1982).

13.04.040 User rates – Review and revision

1) The sewer user charges shall, as a minimum, be established by the council by resolution upon the passage of the ordinance codified in this chapter and be reviewed annually and updated by resolution of the council to reflect actual costs of operation, maintenance, replacement and financing of the sewage collection and treatment facilities. Any revisions of the user charges shall be based on actual operation, maintenance, replacement and financing expenses, the total daily flow, the total daily BOD and/or the total daily suspended solids. The city may install flow-measuring devices and/or collect wastewater samples at any time in any user's service line to determine actual usage as a basis for revision of the user's charge. Revisions due only to changes in expenses and user class shall be made by the city.

2) Revisions involving user's flow, BOD and/or suspended solids shall normally only be made upon the recommendation of a registered professional engineer. All changes in user charges applicable to this chapter shall be computed by the methods outlined herein. (Ord. 645 §3(part), 1982).

13.04.050 User rates – Request for change

Any sewer user, who feels his user charge is unjust and inequitable as applied to his premises within the spirit and intent of the foregoing provisions, may make written application to the city council requesting a review of his user charge. Said written request shall, where necessary, show

the actual or estimated average flow and strength of his wastewater in comparison with the values upon which the charge is based, including how the measurements or estimates were made. Any flow measurements and/or testing of wastewater shall be approved in detail by the city and/or its engineer. Review of the request by the city council shall determine if it is substantiated or not, including recommended further study of the matter for the city and/or user by a registered professional engineer. (Ord. 645 §3(part), 1982).

13.04.060 Wastewater connection – Required

Every parcel of land or premises within the boundaries of the city, improved for occupancy and occupied or used by any person or persons, or as a commercial business, shall be connected to the public sanitary sewer system; provided, however, connection to the sanitary sewer system from inflow (storm drain or non-sewage source) sources into the sanitary sewer system shall neither be required nor permitted. The owner or person in charge of such land shall make or cause to be made, such connection within sixty days after receiving official notice from the city to so connect. All charges associated with the laying of pipe from the home or facilities to be served to the city's mains and all other costs incurred in connecting to said mains shall be borne by the property owner. All such connections to the city's mains shall be properly designed and constructed in conformity with requirements specified by the city. If a parcel of land is not within three hundred feet of a sewer, connection is optional. (Ord. 645 §3, 1982).

13.04.070 Wastewater connection – Fees

From and after September 19, 1990, sewer connection fees shall be reviewed annually and set by resolution of the council. Any connections not covered by resolution of the council shall have fees set by the mayor and city council in each individual situation. Such fees are for the privilege of connecting to the city sewer and all work necessary for making proper connection shall be done to the satisfaction of and under the supervision of the city plumbing inspector and shall be paid for in advance by the person desiring such connection. (Ord. 711 §1, 1990: Ord. 645 §4, 1982: Ord. 431 §1(part), 1962).

13.04.080 Wastewater connection – Full fee

Any applicant for a sewer connection to any lot abutting on a street, alley or other right-of-way containing a main sewer line shall pay the full connection fee therefore. (Ord. 645 §5(l), 1982: Ord. 431 1(1), 1962).

13.04.090 Wastewater connection – Half fee

In case two or more dwellings exist on any lot under the same ownership, and if any of such dwellings is located to the rear of the other or if at least seventy-five feet from the property line abutting on any street, alley or right-of-way containing a main sewer line, the rear dwelling shall be charged one-half the applicable full connection fee where the owner thereof requests only one stub for dwellings on such lot and the same service lateral is used for all such dwellings. (Ord. 645 §5(2), 1982: Ord. 431 §1(2), 1962).

13.04.100 Wastewater connection – Business block or shopping center – Full and half fee

In any business block or shopping center containing more than one adjoining business or commercial establishment under one ownership, where more than one such establishment is connected with the same service lateral but separate applications for service are made and separate billings requested, one of such establishments shall pay the applicable full connection fee and each additional establishment shall pay one-half the applicable connection fee required for connection of similar size. (Ord. 645 §5(3), 1982: Ord. 431 §1(3), 1962).

13.04.110 Wastewater connection – Subdivision of unimproved property – Collection lines required – Costs

Any person owning unimproved real property which does not abut a street, alley or right-of-way containing a main sewer line and who subdivides the same for construction of dwellings, shall install collection lines acceptable to the city and connect the same to an existing city main sewer line at a place to be determined by the city council, all at the cost and expense of the subdivider. (Ord. 645 §5(4), 1982: Ord. 431 §1(4), 1962).

13.04.120 Wastewater main charge

1) Hereafter, any person, firm, corporation or entity, before obtaining a permit to connect to any public sanitary sewer, whether lateral, main or interceptor, shall pay a sewer main charge therefore at the rate of ten dollars per lineal foot of property abutting either side of said sewer line. Said sewer main charge shall be in addition to all other hookup fees or charges required; provided, however, no sewer main charge shall be required if the installation is within a recently platted and improved subdivision where the permittee can establish to the satisfaction of the city that the sewer line was not constructed substantially at city expense.

   If the city places stub-outs from a main sewer or water line accessible to an owner's property, the property owner shall reimburse the city for the cost of said stub-out when the property owner obtains a permit to hook-up to a city sewer or water line.
2) From and after passage of the ordinance codified in this section, all future water main fees and sewer main fees shall be reviewed annually and set by resolution of the city council. (Ord. 760 §§2--4, 1994).

13.04.130 Metered service

Whenever the council deems it appropriate and in the best interests of the city and its citizens to require a user to have the sewer and/or water service to his facilities metered to more appropriately determine the amount of service provided such user by the system, the council may by resolution require the user to install a meter and/or meters which will accurately measure the service provided; and the council may further establish by resolution the rates to be charged for such service as will properly pay the fair share of the services provided such user. The cost of the meter and its installation shall be borne by the user. (Ord. 645 §3(part), 1982).

13.04.140 Water and wastewater bills combined – Delinquency notice

Water and sewer bills shall be combined and billed on a regularly established day of each and every month, in the month succeeding the month in which the service was rendered. Bills shall

be payable as of the date mailed, and shall be deemed delinquent if not paid before the sixteenth day thereafter. Water and/or sewer consumers and users should be notified of this delinquency and if the bill is not paid in full within fifteen days after service of this notification on the water and/or sewer consumer and user, the right to water and sewer services shall cease and terminate unless the water and/or sewer consumer and user requests a pretermination hearing. Should the water and/or sewer consumer and user not request a pretermination hearing or if an adverse decision is rendered against the water and/or sewer consumer and user as a result of the pretermination hearing, the city may require the water and/or sewer consumer and user to pay the delinquent water and/or sewer bill attributable to his own use, plus a turn-on charge to be determined by resolution of the council as a condition of receiving water and sewer service again. (Ord. 645 §8(1), 1982: Ord. 629 §2(1), 1980: Ord. 431 §1(part), 1962).

13.04.150 Delinquency notice – Pretermination hearing

The city in its delinquency notice to all water and/or sewer consumers and users shall inform in writing all water and/or sewer consumers and users of their right to a pretermination hearing, with such hearing to be held with the due process protection described below; and the city will not discontinue water and/or sewer service to any water and/or sewer consumer and user prior to a fair and impartial hearing, after timely and adequate notice and an opportunity to confront witnesses, to personally appear with or without retained counsel, to be judged on facts adduced at the hearing and to otherwise be heard and defend the claim made by the city, if a pretermination hearing is requested by any water and/or sewer consumer and user. The city council shall have the responsibility of holding pretermination hearings. The city council shall make a record of any pretermination hearing. The city council shall render its decision in writing, giving the reasons for its determination. In decisions adverse to the water and/or sewer consumer and user, the city council will inform the water and/or sewer consumer and user of the right to appeal the decision pursuant to the Idaho State Administrative Procedures Act. (Ord. 645 §8(2), 1982: Ord. 629 §2(2), 1980: Ord. 431 §1(part), 1962).

13.04.160 Delinquent bills attributable to prior consumers

The city shall not initially deny or discontinue water and/or sewer service to any water and/or sewer consumer and user because of any delinquent water and sewer bill on that premises that is attributable to the prior water and sewer use of another water and/or sewer consumer. The city shall not initially deny water and/or sewer service to any water and/or sewer user for whatever reason without informing the water and/or sewer consumer and user of the right to a hearing before the city council on the issue of whether the city can initially deny water and/or sewer services. In the case of an initial denial of water and/or sewer service, the city is not required to provide water and/or sewer service pending a hearing. However, a hearing upon request of a water and/or sewer consumer and user initially denied water and sewer services shall be held as expeditiously as possible and held in the manner and in accordance with the procedures for pretermination hearings delineated in Section 13.04.090. In case such water service is discontinued for delinquency, it shall not be restored until such delinquency is paid, or arrangements for payment satisfactory to the city have been made, and a fee of twenty-five dollars for discontinuing and restoring service has been paid. (Ord. 645 §8(3), 1982: Ord. 629 §2(3), 1980: Ord. 431 §1(part), 1962).

13.04.170 Violation – Penalty

Any person who violates any provision of this chapter upon conviction shall be guilty of a misdemeanor, and shall be fined not to exceed three hundred dollars or by imprisonment in the city/county jail not to exceed six months, or by both. Any violation of any or all provisions of this chapter for any one day shall constitute a separate offense. (Ord. 645 §10, 1982).

13.04.180 Enforcement

The proper local authorities of the city, county or state, in addition to the other remedies, may institute any appropriate action or proceedings to correct or abate any violations of this chapter. (Ord. 645 §11, 1982).

TITLE 14 MOBILE HOMES AND TRAVEL TRAILERS

CHAPTER 14.01 MOBILE HOME – GENERAL PROVISIONS

14.01.010 Description and purpose of provisions

This chapter establishes minimum standards and requirements for the occupation of mobile homes and for the construction and operation of mobile home parks. It is concerned with the relationship of the mobile home to adjacent land uses in order to protect and secure the public health, safety and general welfare of the City of Rexburg.

The regulations in this chapter are intended to provide a stable, healthful environment, together with the full range of services, for those residents choosing to reside in mobile homes on a permanent or temporary basis or for those people desiring to utilize travel trailers or campers. (Ord. 548 §1, 1974).

14.01.020 Definitions

1) Accessory building: A building which is subordinate to, and incidental to the principal building on the same lot, but does not include any building containing a dwelling unity as hereinafter defined.

2) Accessory use: A use incidental and subordinate to the principal use of the premises.

3) Access way: An unobstructed way of specified width containing a drive or roadway which provides vehicular access within a mobile home park.

4) Agriculture: Tilling of soil, horticulture, raising crops, livestock, dairying, including all uses customarily accessory and incidental thereto; but excluding slaughter houses and commercial feed lots.

5) Airport: Any area of land or water which is used or intended for use by aircraft and including the necessary appurtenant structures or facilities located thereon.

6) Animal hospital: Any building or portion thereof designed or used for the care or treatment of cats, dogs or other animals.

7) Apartment: A room or suite of rooms in a multiple-family structure which is arranged, designed or used as a single housekeeping unit and has complete kitchen and sanitary facilities permanently installed.

8) Automobile Sale Lot: Premises on which new or used passenger automobiles, trailers, mobile homes or trucks in operating condition are displayed in the open for sale or trade, and where no repair or service work is done.

9) Automobile Service Station: Premises used primarily for the retail sale and delivery to the vehicular accessories, and providing vehicular lubrication related services, including minor motor vehicle repairs.

10) Awning: Any stationary structure used in conjunction with a mobile home, other than a window awning, for the purpose of providing shelter from the elements and having a roof with supports and not more than one wall or storage cabinet substituting for a wall.

11) Boarding house: A building other than a hotel or restaurant where meals are provided for compensation to three or more persons, but not more than twelve (12) persons who are not members of the householder=s family.

12) Block: The space along one side of a street between the two nearest intersecting streets, or between an intersecting street and a right-of-way, waterway or other similar barrier, whichever is lesser.

13) Building: Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows or opening, which is designed or intended for the shelter, enclosure or protection of persons, animals, chattels or property of any kind.

14) Building, detached: A building surrounded by open space on the same lot.

15) Building, nonconforming: Any building which does not conform to the requirements of this ordinance.

16) Building, government: A building owned or used by the Federal, State, County or City government, or any political subdivision, agency or instrumentality thereof.

17) Business or Commerce: The purchase, sale, exchange or other transaction involving the handling or disposition of any article, substance or commodity for profit or livelihood or the ownership or management of office buildings, offices, recreation or amusement enterprises or the maintenance and use of offices, or professions and trades rendering services.

18) Cabana: A stationary lightweight structure which may be prefabricated or demountable, with two or more walls, used adjacently to and in conjunction with a trailer, or provided additional living space and meant to be moved with the trailer.

19) Carport: A stationary structure consisting of a roof with its supports and not more than one wall or storage cabinet substituting for a wall, and used for sheltering a motor vehicle.

20) City: The City of Rexburg.

21) City Clerk: The City Clerk of the City.

22) Commission: The planning-zoning Commission of the City. The Planning commission is declared to also be the zoning commission of the City.

23) Comprehensive General Plan: The Comprehensive General Plan for the City officially adopted by the Council as such.

24) Conditional use: The term Conditional Use shall mean a use or occupancy of a structure, or use of land, permitted only upon issuance of a Conditional Use Permit and subject to the limitations and conditions specified therein.

25) Council: The Council of the City. (Ord. 548 §3(part), 1974).

26) Dependent Trailer Coach: A trailer coach which doesn=t have a toilet and a bathtub or sleeper. (Ord. 422 §1(part), 1960).

Drive-in establishment: An establishment, other than an automobile service station, which is designed to accommodate the motor vehicles of patrons in such manner as to permit other occupants of such vehicles, while remaining therein, to make purchases or receive services.

27) Dwelling: A building, or portion thereof, containing one or more dwelling units. The term dwelling does not include any trailer, motel, hotel, guest house or boarding house as defined herein.

28) Dwelling, high rise multiple-family: A multiple-family building or portion thereof, containing five (5) or more stories and which may include off- street parking facilities, and having at least one (1) passenger elevator to serve the dwelling units.

29) Dwelling, multiple family: A multiple-family building, or portion thereof containing three or more dwelling units.

30) Dwelling, single family: A building designed for use and occupancy by no more than one family.

31) Dwelling, two family: A detached building designed for and occupied exclusively by two families living independently of each other.

32) Dwelling unit: One or more rooms designed for, or used as a residence for not more than one family, including all necessary household employees or such family, and constituting a separate and independent housekeeping unit, with a single kitchen permanently installed. The term does not imply or include such types of occupancy as a lodging or boarding house, club, sorority, fraternity or hotel.

33) Floor area, gross: The sum of the gross horizontal areas of several floors including the exterior walls of a building or portion thereof.

34) Floor area, net: That portion of the gross floor area of the building occupied by the listed use or uses and shall include hallways, storage and packaging space, dressing or rest rooms and

laboratory or work rooms, provided however, that floor space within the building reserved for parking or loading of vehicles, and basement space used only for building maintenance and utilities shall be excluded.

35) Height, building: The vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line or a mansard roof or the average height of the height gable of a pitch or hip roof. (Ord. 548 §3(part), 1974).

36) Independent Trailer Coach: A trailer coach which has a toilet and a bathtub or sleeper. (Ord. 422 §1(part), 1960).

37) Junk Yard: An outdoor space where junk, waste, discarded or salvaged materials are stored or handled, including automobile wrecking yards, and yards for used building materials and places or yards for storage of salvaged building and structural steel materials and equipment; excluding yards or establishment for the sale, purchase or storage of used cars, discard or salvaged materials as part of a permitted manufacturing operation on the same premises.

38) Kennel, commercial: Any lot or premise or portion thereof, on which three (3) or more dogs, cats and other household domestic animals are maintained, harbored possessed, boarded, bred or cared for in return for compensation or kept for sale.

39) Loading and unloading space, off-street: An open off-street area of land other than a street or public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys.

40) Lot: A unit of land described by meters and bounds or a part of a recorded subdivision so recorded for transfer of ownership.

41) Lot, corner: A lot which is bound on two (2) or more sides by street lines where the angle of intersection does not exceed one hundred thirty-five (135) degrees.

42) Lot line: The boundary property line encompassing a lot. The front lot line is the boundary line which abuts a public street. For a corner lot, the owner may select either street line as the front lot line. The rear lot line is the lot line or most nearly parallel to and most remote from the front property line. All other lines are side lot lines. An interior lot line is a side line in common with another lot.

43) Lot Width: The horizontal distance between side lot lines measured at right angles to the depth at a point midway between the front and rear lot lines.

44) Mobile Home: A detached single-family dwelling unit with all the following characteristics: Designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connection for attachments to outside systems.

45) Designed to be transported after fabrication on its own wheels or on flat bed or other trailers or detachable wheels.

46) Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location of foundation support connection to facilities and the like.

47) Mobile Home Park: Any area, tract, plot, or site of land, whereupon two or more mobile homes are placed, located and maintained for dwelling purposes on a permanent or semipermanent basis and for which a fee, rental or contract for payment for such use is collected by or collectable to the person holding the land.

48) Mobile Home Space: A plot of ground within a mobile home park designed for the accommodation of one mobile home or trailer.

49) Motel: A building, or group of buildings on the same premises whether detached or in connected rows, containing sleeping or dwelling units independently accessible from the outside, with garage space or parking space located on the premises and designed for, or occupied by, travelers. The term includes, but is not limited to, any buildings or building groups designated as auto courts, motor lodges, tourist courts or by any other title or sign intended to identify them as providing lodging to motorists.

50) Nonconforming Use: Any use lawfully occupying a building, structure or land at the effective date of this ordinance, or subsegment amendment thereto, which does not conform to the regulations for the district in which it is located.

51) Nursery School: An institution providing care, with or without instruction, for more than five (5) children of preschool age.

52) Nursing Home, Convalescent Home: A building housing any facility, however named, whether operated for profit or not the purpose of which is to provide skilled nursing care and related medical service for two or more individuals suffering from illness, disease, injury, deformity or requiring care because of old age.

53) Parking Lot: An open, graded and surfaced area, other than a street or public way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

54) Parking Space: Usable space within a public or private parking area or building not less than one hundred and eighty (180) square feet, (9'x20'), exclusive of access drives, aisles or ramps for the storage of one passenger automobile or commercial vehicle.

55) Ramada: A stationary structure having a roof extending over a mobile home or trailer which may also extend over a patio or parking space for motor vehicle and is used principally for protection from the elements.

56) Rest home, elderly housing home: The same as a nursing home except that medical care is not administered therein.

57) Restaurant: Any land, building or part thereof, other than a boarding house where meals are provided for compensation, including, among others, such use as café, cafeteria, coffee shop, lunch room, tea room and dining room.

58) Service Building: A structure containing lavatories, water closets, showers and/or bathtubs, and laundry facilities for the use of mobile home or travel trailer park occupants.

59) Set back area: The space on a lot required to be left and unoccupied by buildings or structures, either by the front, side or rear yard requirements of this ordinance, or by delineation on a recorded subdivision map.

60) Sign: A sign is any structure or natural object, such as a tree, rock, bush and the ground itself, or part thereof or device attached hereto or painted or represented thereon, which shall be used to attract attention to any object, product, place, activity, person, institution, organization or business or which shall display or include any letter, word, model, banner, flag, pennant insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. For the purpose of this definition the word Asign@ does not include the flat, pennant or insignia of the nation state, city or other political unit, or any political educational, charitable, philanthropic, civic, professional, religious, or like campaign, drive, movement or event.

61) Stand: That part of a mobile home space reserved for the placement of a mobile home.

62) Story: That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top-most story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.

63) Street: A public right-of-way which provides vehicular and pedestrian access to adjacent properties, acceptance or grant of which has been officially approved by the Council. The term AStreet@ includes also the terms highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place and other such terms.

64) Structure: Anything constructed or erected, except fences, not exceeding three (3) feet is height, which requires permanent location on the ground or is attached to something having location on the ground.

65) Tavern or Lounge: A building where alcoholic beverages are sold for consumption on the premises, not including restaurants where the principal business is serving food.

66) Travel Trailer: A vehicle or structure equipped with wheels for highway use that is intended for temporary human occupancy, is not being used or residential purposes and is being used for vacation, travel, or recreational purposes. (Ord. 548 §3(part), 1974).

67) Trailer Coach: Any vehicle used or so constructed as to permit its being used as a conveyance upon the public highways and constructed in such manner as will permit occupancy thereof as a dwelling or sleeping place for one or more persons.

68) Trailer Coach Space: A plot of land within a trailer court designated for the accommodation of one trailer coach.

69) Trailer Court: Any plot of land upon which two or more trailer coaches, occupied for dwelling or sleeping purposes, are located.

70) Trailer Housing: A lot or plot of land upon which one trailer coach only, occupied for dwelling or sleeping purposes, is located. (Ord. 422 §1(part), 1960).

71) Travel Trailer Park: Any area, tract, plot or site of land whereupon two or more travel trailers are placed, located and maintained for dwelling purposes on a semi-permanent basis and for which a fee or rental for such use is collected by or collectable to the person holding the land.

72) Yard: An open space on the same lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this ordinance, and which extends along a lot line and at right angles thereof to a depth or width specified in the yard regulation for the district in which the lot is located. (Ord. 548 §3(part), 1974).

CHAPTER 14.02 LOCATION, PARKING, AND STORAGE RESCTRICTIONS

14.02.010 Location in Mobile Home Park required

It shall be unlawful to maintain a mobile home or trailer for residential purposes outside a mobile home park or a mobile home subdivision district. Such prohibition shall apply regardless of whether the parking site shall be on private or public premises, streets, alleys, or highways.

Exceptions to the foregoing requirements: Mobile Homes used for residential Quarters for watchmen or caretakers and located on the premises of an industrial establishment in any industrial zone shall be permitted. ALSO, double-wide mobile homes on masonry foundations shall be permitted for residential purposes in Residential Zones, and Commercial Zones and Industrial Zones. (Ord. 642 §1(part), 1981). Note: The aforementioned zoning titles have been updated. For current zoning titles see Ord. 926.

14.02.020 Wheel removal restrictions

Removing the wheels of a mobile home or trailer or setting the mobile home or trailer on posts or footing shall not make the mobile home or trailer exempt from the requirements of this chapter. (Ord. 548 §2, 1974).

14.02.030 Wheel removal permissions

The wheels of the mobile home may be removed, but no axles, springs, and other equipment needed to mobilize. Jacks or stabilizers may be placed under the frame of the mobile home to prevent movement on the springs while the mobile home is parked and occupied. (Ord. 548 §7(K) (part), 1974).

14.02.040 Travel trailer stand

Trailer stand shall be a minimum of eight feet by thirty-two feet (8' x 32') and located at least five (5) feet from all access ways, and shall be so placed as to maintain at least fifteen (15) feet between all stands in the park. (Ord. 548 §12(B), 1974).

14.02.050 Permit for temporary parking on private premises

Permits shall be issued for the parking of not more than one (1) mobile home or trailer on private premises where such parking is to be done in connection with a bona fide visit of the owner or occupant of such mobile home with individuals living on the premises and such stay will not exceed thirty (30) days. There shall be no fee for said permit. (Ord. 548 §4, 1974).

14.02.060 Parking and storage of unoccupied Mobile Homes, Trailers or Travel Trailers

Parking of unoccupied mobile homes is prohibited on public premises, streets, alleys, or highways, at all times, except for emergency purposes.

Storage of any unoccupied mobile homes or trailer shall be permitted on the rear one-half (2) of any lot, provided, that such unoccupied mobile home or trailer shall not extend into any set back area, nor shall it be connected to in conflict with any other ordinance. (Ord. 548 §4, 1974).

14.02.070 Parking space requirements for Mobile Homes

There shall be one (1) vehicle parking space at least nine feet by twenty feet (9' x 20') in size for each mobile home space, with clear and unobstructed access to an accessway. Any parking in the accessway shall not fulfill this requirement.

Guest parking shall be provided on the mobile home park site (but not in the required accessway if said accessway has less than thirty (30) feet of surfaced roadway at the rate of one (1) vehicle parking space for each mobile home space. (Ord. 548 §7(G), 1974).

14.02.080 Parking space provided for Travel Trailer Parks

One parking space shall be provided for each trailer space and be within fifty feet (50') thereof. (Ord. 548 §12(C), 1974).

14.02.090 Mobile Home Park auxiliary storage buildings

The owner or operator of a mobile home park may construct an individual auxiliary storage building on each mobile home space in the mobile home; provided the building has a maximum floor space of twelve (12) square feet; has a maximum height of seven (7) feet above the ground; has a minimum setback of five (5) feet from adjacent mobile home spaces and access roads; and

has a minimum setback of fifteen (15) feet from any public street or highway right-of-way. (Ord. 548 §7(K) (part), 1974).

14.02.100 Travel Trailer patio and storage

No patio or storage building shall be required. (Ord. 548 §12(D), 1974).

CHAPTER 14.03 CONDITIONS AND REGULATIONS

ARTICLE I MOBILE HOMES

14.03.010 Density requirements

In no event shall the density exceed eight (8) mobile homes per gross acre. Density requirements shall be established as the minimum square footage of gross site area for each mobile home. If it is determined by the Planning Commission that a street widening or terminating dedication is necessary, the amount of land dedicated shall be subtracted from the gross site area when calculating the proposed density. (Ord. 548 §7(C), 1974).

14.03.020 Setbacks from park boundary lines

Mobile home parks shall observe the following setbacks between mobile home stands and development boundary lines:

When abutting any residentially or agriculturally zoned property - fifteen (15) feet.

When abutting commercially zoned property - ten (10) feet.

The setback from any abutting street shall be at least twenty-five (25) feet. (Ord. 548 §7(D), 1974).

14.03.030 Development of boundary lines

An ornamental, sight-obscuring fence or wall of not less than five (5) feet nor more than six (6) feet in height. And/or evergreen planting of not less than five (5) feet in height, shall surround the mobile home park. Such fence, wall or planting may be placed up to the front property line if adequate vision clearance for entrances and exits is maintained. (Ord. 548 §7(E), 1974).

14.03.040 Service building requirements

Every mobile home park that accepts or accommodates travel trailers shall provide adequate flush type toilet fixtures and laundry facilities.

Service buildings housing sanitation facilities shall comply with all applicable City and Sate ordinances and statues regulating buildings, electrical installations and plumbing and sanitation systems.

Service buildings shall:

1) Be located at least fifteen (15) feet from any mobile home space, but not more than two hundred (200) feet;

2) Be of permanent construction, and be adequately lighted;

3) Be of moisture-resistant material to permit frequent washing and cleaning.

4) Have adequate heating facilities to maintain a temperature of seventy (70) degrees Fahrenheit.

5) Have all rooms well ventilated, with all openings effectively screened.

The following shall be the minimum required facilities:

One (1) water closet for each sex for every five (5) travel trailer spaces (Urinal may be substituted for one-third (1/3) of water closets);

One (1) lavatory for each sex for every five (5) travel trailer spaces;

One (1) shower or bathtub for each sex for every ten (10) travel trailer spaces;

One (1) laundry tray for every ten (10) travel trailer spaces.

In no instance shall there be less than one (1) laundry unit, two (2) water closets, one (1) shower or bathtub for women; and one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower or bathtub for men.

Each water closet and shower shall be in a separate compartment with self closing doors on all water closet compartments. The shower stall shall be approximately three feet by three feet (3 x 3) in area. Showers shall have a dressing compartment with stool or bench. The room containing the laundry trays shall be separate from the toilet rooms, and shall have an exterior entrance only. (Ord. 548 §7(J), 1974).

14.03.050 Minimum land area

The following area requirements shall be deemed to be the minimum land area necessary to establish a mobile home or travel trailer park:

1) The minimum parcel of land to be used for mobile home park purposes shall contain not less than two (2) acres.

2) The minimum parcel of land to be used for travel trailer park purposes shall contain not less than two (2) acres. (Ord. 548 §7(B), 1974).

14.03.060 Permitted uses for Mobile Homes

No building, structure or land within the boundaries of a mobile home park shall be used for any purpose except for the uses permitted by this section as follows:

1) Mobile homes for residential use only, together with the normal accessory uses such as a cabana, Ramadan, patio, carport or garage, and a storage or wash room building.

2) Private and Public Utilities.

3) Community recreation facilities, including swimming pools, for residents of the park and guests only.

4) A mobile home park may have one (1) residence for the use of a caretaker or a manager responsible for maintaining or operating the property. (Ord. 548 §7(A), 1974).

14.03.070 Sign regulations

Signs shall be regulated as provided by uniform code. In addition there shall be adequate signs and marks indicating direction, parking areas, recreation areas and street names shall be established and maintained in the mobile home park. (Ord. 548 §7(F), 1974).

14.03.080 Access restrictions

A mobile home park shall not be established on any site that does not have access to a public street on which the potential paving width is less than forty (40) feet. No mobile home space shall be located in such a manner that a public street must be used to maneuver the mobile home into the space. (Ord. 548 §7(H), 1974).

14.03.090 Emergency sanitation facilities

Each mobile home park shall be provided, for emergency purpose, with the sanitation facilities as prepared by the Idaho State Board of Health. (Ord. 548 §7(I), 1974).

14.03.100 Structures, alterations, and additions

Structures located in any mobile home space shall be limited to a storage building, ramada or carport. The permanent storage structure shall contain a minimum of thirty-two (32) square feet of floor area and will not be less than seven (7) feet nor more than nine (9) feet in height. The storage structure, ramada or carport may be combined as one structure. No structural additions shall be built onto or become a part of any mobile home, and no mobile home shall support any building in any manner. The words Astructure additions@ shall not be construed to exclude the construction of an awning, patio cover, or cabana adjacent to a mobile home. (Ord. 548 §7(K) (part), 1974).

14.03.110 Skirting

Skirting of mobile homes is encouraged, but such skirting shall not attach the mobile home permanently to the ground, provide a harborage for rodents, nor create a fire hazard. (Ord. 548 §7(K) (part), 1974).

ARTICLE II TRAVEL TRAILERS

14.03.120 Permit requirements

It shall be unlawful to construct, maintain, operate, or alter any trailer court or trailer housing within the City of Rexburg, Idaho, unless a permit therefore shall have first been issued by the Building Inspector.

Applications for permits shall be made to the Building Inspector on forms furnished by him and shall contain the following information:

1) Name of applicant

2) Address of applicant and location of trailer court or trailer housing

3) The area and dimensions of the tract of land

4) The location of the service building or buildings and other existing or proposed structures.

5) The location and width of roadways and walkways

6) The location of sewer, water, and other utility lines.

7) Plans and specifications of all buildings and other improvements constructed or to be constructed upon any trailer court.

8) Such other information as the building inspector shall deem necessary to carry out the purpose of this ordinance. (Ord. 422 §2, 1960).

14.03.130 Duration of permit

Each permit issued hereunder for trailer courts shall be valid for the calendar year for which it is issued and shall expire December 31st. (Ord. 422 §3, 1960).

14.03.140 Permit fees

No permit shall be issued until the plans and/or the existing condition of the trailer court or trailer housing for which the application for permit is made shall be inspected and approved by the following city officers, to-wit: Building Inspector, Plumbing Inspector, Fire Inspector, and Electrical Inspector.

The officers designated in this section are hereby authorized and directed to make periodic inspections to determine the condition of all trailer courts and trailer housing.

Whenever any inspection reveals that conditions or practices exist which are in violation with any provision of this ordinance, or any ordinance of the City of Rexburg, Idaho, or law or laws of the State of Idaho, the inspecting officer shall give notice in writing to the person in charge of

such trailer court of trailer housing, and unless such conditions or practices are corrected within a reasonable period of time, such period of time to be determined by the inspecting officer, the trailer court of trailer housing shall cease operation. (Ord. 422 §5, 1960).

14.03.150 Service building requirements

Every mobile home park that accepts or accommodates travel trailers shall provide adequate flush type toilet fixtures and laundry facilities.

Service buildings housing sanitation facilities shall comply with all applicable City and Sate ordinances and statues regulating buildings, electrical installations and plumbing and sanitation systems.

Service buildings shall:

1) Be located at least fifteen (15) feet from any mobile home space, but not more than two hundred (200) feet;

2) Be of permanent construction, and be adequately lighted;

3) Be of moisture-resistant material to permit frequent washing and cleaning.

4) Have adequate heating facilities to maintain a temperature of seventy (70) degrees Fahrenheit.

5) Have all rooms well ventilated, with all openings effectively screened.

The following shall be the minimum required facilities:

One (1) water closet for each sex for every five (5) travel trailer spaces (Urinal may be substituted for one-third (1/3) of water closets);

One (1) lavatory for each sex for every five (5) travel trailer spaces;

One (1) shower or bathtub for each sex for every ten (10) travel trailer spaces;

One (1) laundry tray for every ten (10) travel trailer spaces.

In no instance shall there be less than one (1) laundry unit, two (2) water closets, one (1) shower or bathtub for women; and one (1) water closet, one (1) urinal, one (1) lavatory, and one (1) shower or bathtub for men.

Each water closet and shower shall be in a separate compartment with self closing doors on all water closet compartments. The shower stall shall be approximately three feet by three feet (3 x 3) in area. Showers shall have a dressing compartment with stool or bench. The room containing the laundry trays shall be separate from the toilet rooms, and shall have an exterior entrance only. (Ord. 548 §7(J), 1974).

14.03.160 Attendant required

A duly authorized attendant or caretaker shall at all times be in charge of any trailer court for which he is employed. (Ord. 422 §16, 1960).

14.03.170 Applicability of provisions – Exceptions

Travel trailer parks are designed for the location of travel trailers, campers, and motorized coaches, used for short-term occupancy. (Ord. 548 §12(part), 1974).

14.03.180 Minimum size requirement

No minimum size requirement for trailer spaces. (Ord. 548 §12(A), 1974).

CHAPTER 14.04 REGISTRATION OF OCCUPANTS

14.04.010 Register of mobile homes, trailers, and occupants

Every mobile home or travel trailer park owner or operator shall maintain a register containing a record of all mobile homes, trailers and occupants using the park. Such register shall contain the names and addresses of all mobile home occupants stopping in the park; the make, model, and license number of each motor vehicle and mobile home; the State Territory, or County issuing the mobile home license, and the dates of arrival and departure of each mobile home. (Ord. 548 §13, 1974).

CHAPTER 14.05 ZONING APPROVAL

14.05.010 Building permit and tentative approval

No building permit shall be issued for construction of a new mobile home park or expansion of an existing mobile home park in any district until the proposed location is approved with the stipulations of the approval stated therein.

At the time of the public hearing the planning Commission may give tentative approval of the use of the proposed location for mobile home park purposes. Final approval of said use shall be contingent upon the submission of acceptable detailed plot plans of the proposed mobile home park development as required by Section 5 (A). (Ord. 548 §5, 1974).

14.05.020 Plot plans required

The application for a permit to construct a new mobile home park or to expand an existing mobile home park shall be accompanied by four (4) copies of the plot plan of the proposed park. The plot plan should show the general layout of the entire mobile home park, and should be drawn to a scale not smaller than one (1) inch representing forty (40) feet. The drawing shall be placed on substantial tracing paper, or equivalent, and shall show the following information:

1) Name of the person who prepared the plan.

2) Name of the mobile home park and address.

3) Scale and North point of the plan.

4) Vicinity map showing relationship of mobile home park to adjacent properties.

5) Boundaries and dimensions of the mobile home park.

6) Location and dimensions of each mobile home space.

7) Location and dimensions of each existing or proposed buildings.

8) Location and width of access ways.

9) Location and width of walkways.

10) Location of each lighting fixture for lighting the mobile home spaces and grounds.

11) Location of recreation areas and buildings, and area of reaction space in square feet.

12) Location and type of landscaping, planting, fence, wall, or combination of any of these or other screening materials.

13) Location of point where mobile home park water and sewer system connects with the public system.

14) Location of available fire and irrigation hydrants.

15) Location of public telephone service for the park.

16) Enlarged plot plan of a typical mobile home space, showing location of the stand, patio, storage space, parking, sidewalk, utility connections and landscaping.

16A) Draft of proposed documents including:

a) Management policies, covenants and restrictions.

b) Maintenance agreement.

17) Detail plans required. At the time of application for a license to construct a new mobile home park or to expand an extension park, the applicant shall submit four (4) copies of the following required detailed plans:

a) New structures.

b) Water and Sewer systems.

c) Electrical Systems.

d) Road, sidewalk and patio construction.

e) Drainage system.

f) Recreation area improvements.

18) Before construction of a swimming pool in a mobile home park, two (2) copies of plans must be approved by the building inspector. (Ord. 548 §5, 1974).

CHAPTER 14.06 SITE REQUIREMENTS

14.06.010 Access ways

Access ways shall connect each mobile home space to a public street and shall have the following minimum pavement widths:

1) Entrance Street and collectors with guest parking on both sides - thirty-six (36) feet;

2) Collector street, parking on one side - twenty-eight (28) feet;

3) Collector street, no parking - twenty (20) feet;

4) Minor street or cul-de-sac, no parking - twenty (20) feet;

5) Cul-de-sac diameter - eighty (80) feet. (Ord. 548 §8(A), 1974).

14.06.020 Walkways

Walkways shall be provided from each mobile home space to the service building and recreational area or areas, and from the patio to the access way. Common walkways shall have a minimum width of three (3) feet and private walkways shall have a minimum width of one and one-half (1-2) feet. The access way may be considered as part of the walkway to the service building and recreation areas, provided said access ways shall be widened by three (3) feet over the minimum width requirements set forth in Section 6 of this chapter. (Ord. 548 §8(B), 1974).

14.06.030 Recreation area

A minimum of eight percent (8%) of gross mobile home area shall be reserved for recreation. The recreation area may be in one (1) or more locations in the park. At least one (1) recreation area shall have a minimum size of five thousand (5,000) square feet, and be of a shape that will make it usable for its intended purpose. (Ord. 548 §8(C), 1974).

14.06.040 Electricity

An electrical outlet supplying at least 200 amp service shall be provided for each mobile home space. The installation shall comply with all State and Local electrical codes. Such electrical outlets shall be weatherproof. No power line shall be permitted to lie on the ground, or to be suspended less than fifteen (15) feet above the ground. (Ord. 548, §8(D), 1974).

All electrical wiring in the trailer court or trailer housing shall comply with the ordinances of the City of Rexburg, Idaho. Electrical outlets shall be provided at each trailer coach space supplying voltages of 220 volts and 110 volts. All driveways and walkways within the trailer court shall be lighted at night (from one hour after sundown to one hour before sun up) with electrical lamps of not less than 25 watts each spaced at intervals of not more than 100 feet. (Ord. 422, §11, 1960).

14.06.050 Sewage disposal

All plumbing in the mobile home park shall comply with State and Local plumbing laws and regulations and must connect to a public sewer or central sewer facilities approved by the City.

Each mobile home space shall be provided with at least a three inch (3") sewer connection. The sewer connection shall be provided with suitable fittings so that a watertight connection can be made between the mobile home drain and sewer connection. Such individual mobile home connections shall be so constructed that they can be closed when not linked to a mobile home, and shall be trapped in such a manner as to maintain them in an odor free condition. Sewer lines shall be constructed with the approval of the Building Inspector, and in accordance with his recommendations. All sewer lines shall be adequately vented, and shall be laid out with sufficient earth cover to prevent breakage from traffic. (Ord. 548 §8(E), 1974).

14.06.060 Water supply accessibility

An accessible, adequate safe and potable central supply of water shall be provided in each mobile home park, capable of furnishing a minimum of one hundred twenty-five (125) gallons per day per mobile home space. A public supply of water shall be used whenever possible and connection shall be made thereof. (Ord. 548 §8(F) (part), 1974).

14.06.070 Water supply piping and maintenance

The water system of the mobile home park shall be connected by pipes to all buildings and all mobile home spaces.

All water piping shall be constructed and maintained in accordance with State and Local law; the water piping system shall not be connected with non-portable or questionable water supplies, nor be subject to the hazards of back flow or backsiphonage.

Individual water service connections which are provided for direct use by mobile homes shall be so constructed that they will not be damaged by the parking of such homes. The mobile home park water system shall be adequate to provide twenty (20) pounds per square inch of pressure at all mobile home connections.

The use of ordinary stop and waste valves where back flow can occur into the portable water system is prohibited. (Ord. 548 §8(F) (part), 1974).

An adequate and safe supply of water under pressure shall be applied to each trailer court or trailer housing. The source and distribution system shall be approved by the applicable inspecting officer. Each trailer coach space shall have a water supply outlet. An adequate supply of water shall be provided at all times in each service building. (Ord. 422 §8, 1960).

CHAPTER 14.07 SPACE REQUIREMENTS

14.07.010 Mobile home space area

The average size of a mobile home space in a mobile park shall not be less than four thousand (4,000) square feet and no space shall be smaller than two thousand four hundred (2,400) square feet. No space shall have a width of less than thirty-two (32) feet. (Ord. 548 §9(A), 1974).

14.07.015 Travel trailer space area

Each trailer coach space shall be at least 20 feet in width. And shall have its boundaries well defined. The space shall abut on a driveway not less than 20 feet in width, which shall have unobstructed access to a public street or highway. Trailer coaches shall be parked on each space so that there will be at least 8 feet of clearance between coaches, and shall be so parked that no part of the coach or its trailer hitch shall extend into the roadway, or obstruct any walk way or sidewalk. Coaches shall not be parked closer than 4 feet to any building or fence or other structure. No greater number of coaches shall be allowed than the number of trailer coach space available therefore. In all trailer courts the coaches and trailer coach spaces shall be set back from the property line to afford front yards, side yards, and rear yards which will fully comply with the regulations in the particular zone in which they are situated, as established in zoning Ordinance No. 390 of the City of Rexburg, Idaho. (Ord. 422 §6(part), 1960). Note: For current zoning regulations see Ord. 926.

14.07.018 Travel trailer park spaces

Park spaces for vehicles must be so laid out that parking of vehicles will not obstruct any driveway, roadway, walkway, or sidewalk, and will leave at least six (6) feet of space not occupied by any vehicle, between the coaches. (Ord. 422, §6(part), 1960).

14.07.020 Outdoor living area

Each mobile home space shall be provided with a minimum outdoor living area of three hundred (300) square feet. (Ord. 548 §9(B), 1974).

14.07.030 Patio and deck restrictions

Each mobile home space may be provided with a patio or deck having a minimum area of one hundred forty (140) square feet but not more than one-half (2) of the outdoor living area. The patio or deck shall have a minimum width of ten (10) feet. (Ord. 548 §9(C), 1974).

14.07.040 Parking stand required

Occupied mobile homes shall be parked on stands only. Said stands shall be set back a minimum of eight (8) feet from any street or common walkway. (Ord. 548 §9(D), 1974).

14.07.050 Space required between mobile homes

Minimum space requirements between mobile home stands:

1) End to end, fourteen (14) feet;

2) Side to side, twenty (20) feet;

3) Temporary or permanent structures situated in one (1) space shall be separated by at least ten (10) feet from temporary or permanent structure or mobile homes in an adjoining space;

4) Distance across a street between two stands, thirty-six (36) feet. (Ord. 548 §9(E), 1974).

CHAPTER 14.08 IMPROVEMENT REQUIREMENTS

14.08.010 Roadway surfacing

Roadways within access ways and sidewalks shall be paved with a crunched rock base and asphaltic or concrete surfacing according to structural specifications established by the City Engineer. (Ord. 548 §10(A), 1974).

14.08.020 Patios and decks

Patios may be paved with asphalt, concrete, or suitable hard surfaced material or if decks are used, they shall be of durable, safe construction. (Ord. 548 §10(B), 1974).

14.08.030 Accessway and walkway lighting

All access ways and walkways within the park shall be alighted at night to provide a minimum of 1.5 foot candles of illumination. (Ord. 548 §10(C), 1974).

14.08.040 Wiring to be underground

Wires for service to light poles and mobile home spaces shall be underground. (Ord. 548 §10(D), 1974).

14.08.050 Mobile home stand surfacing

Mobile home stands shall be paved with asphalt or concrete surfacing or with crushed rock contained within concrete curbing or pressure-treated wooded screens. (Ord. 548 §10(E), 1974).

14.08.060 Drainage requirements

The mobile home park shall be well drained. Provisions for drainage shall be made in accordance with plans approved by the City Engineer. (Ord. 548 §10(F), 1974).

14.08.070 Public telephones

Public telephone service may be made available for the mobile home park residents. (Ord. 548 §10(G), 1974).

14.08.080 Laundry room facilities

Adequate and properly equipped laundry room facilities shall be made available to the residents of the mobile home park. Said facilities shall include drying areas of two thousand five hundred (2,500) square feet per one hundred (100) dwellings units. (Ord. 548 §10(H), 1974).

14.08.090 Fenced storage area

A fenced storage area shall be provided for each mobile home park for the storage of accessory items such as boats, vacation trailers, campers and related equipment owned by the park residents. Such item will be stored in the storage area and not be parked beside the mobile home. (Ord. 548 §10(I), 1974).

14.08.100 Mail delivery facilities

Mailboxes provided. Each mobile home site shall be equipped with a receptacle for mail deliveries in accordance with standards recommended by the local postmaster. (Ord. 548 §10(J), 1974).

CHAPTER 14.09 HEALTH, SANITATION, AND MAINTENANCE REQUIREMENTS

14.09.010 Refuse management intent

The storage, collection and disposal of refuse in the park shall be so as to create no health hazards, rodent harborage, insect breeding areas, accident hazards or air pollution. (Ord. 548 §11(A) (part), 1974).

14.09.020 Refuse containers

All refuse shall be stored in fly tight, watertight, rodent proof containers which shall be located not more than one hundred fifty feet (150') from mobile home space. They shall be provided in sufficient number and capacity to prevent any refuse from overflowing.

Racks or holders shall be provided for all refuse containers. Such containers, racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them. (Ord. 548 §11(A) (part), 1974).

14.09.030 Refuse collection

All garbage shall be collected at least twice weekly. Rubbish shall be dumped frequently enough to prevent it from overflowing available containers. Where suitable collection service is not available from municipal or private agencies, the mobile home park operator shall provide this service. All refuse shall be collected and transported in covered vehicles or covered containers. (Ord. 548 §11(A) (part), 1974).

14.09.040 Approval for incinerator construction

Incinerators shall be constructed only with approval of the State and Local Health Officers. Such approval shall be based on a review of the plan specifications for such incinerators and approval of the site where they will be located. Such approval shall specify the type of material which shall be placed in the incinerators. (Ord. 548 §11(A) (part), 1974).

14.09.050 Authorized personnel for incinerator use

Incinerators shall be fired only when attended by some person specifically authorized by the owner or operator of the mobile home park. (Ord. 548 §11(A) (part), 1974).

14.09.060 Incinerator restrictions

Trash incinerators shall not be used for the disposal of garbage. (Ord. 548 §11(A) (part), 1974).

14.09.070 Fire protection requirements

The park area shall be subject to the rules and regulations of the City prevention authority.

Mobile home park areas shall be kept free of litter, rubbish, and other flammable materials.

Portable fire extinguishers of a type approved by the fire prevention authority shall be kept in service buildings and in all other locations named by such fire prevention authority, and shall be maintained in good operating condition.

Fires shall be made only in stoves, incinerators and other equipment intended for such purposes. (Ord. 548 §11(D), 1974).

No open fires shall be permitted in any trailer court in any place where the same shall endanger life or property. (Ord. 422 §13(part), 1960).

14.09.080 Communicable or contagious disease procedures

Every person operating a mobile home park shall notify the local Health Offices immediately of any suspected communicable or contagious disease within the mobile home park. In the case of diseases diagnosed by a physician as quarantined, such person operating a mobile home park shall not permit the departure of a mobile home or its occupants, or the removable therefrom of clothes or other articles which have been exposed to infection, without approval of the Health Officer. (Ord. 548 §11(E), 1974).

14.09.090 Pet restrictions

No owner or person in charge of a dog, cat or other pet animal shall permit it to run at large, or to commit any nuisance within the limits of any mobile home park. (Ord. 548 §11(F), 1974). Note: the aforementioned also applies to travel trailer parks. See Ord. 422 15, 1960).

14.09.100 Insect and rodent control

Insect and rodent control measures to safeguard public health, as recommend by the Health Officer, shall be applied in the mobile home park.

Effective larvicide solutions may be recommended by the Health Officer for fly or mosquito breeding areas which cannot be controlled by other, more permanent measures.

Accumulations of debris which may provide harborage for rodents shall not be permitted in the mobile home park.

When rats or other rodents are known to be in the mobile home park, the park operator shall take definite action, as directed by the Health Officer, to exterminate them.

Suitable measures recommended by the Health Officer shall be taken by the mobile home park operator to control other insects. (Ord. 548 §11(B), 1974). Note: the aforementioned also applies to travel trailer parks. See Ord. 422 §10, 1960.

14.09.110 Liquefied petroleum gas restrictions

Liquefied petroleum gas for cooking purposes shall not be used at individual home spaces unless the containers are properly connected by copper or other suitable metallic tubing. Liquefied petroleum gas cylinders shall be so fastened in place, and shall be adequately protected from the weather. No cylinder containing liquefied petroleum gas shall be located in a mobile home nor within five (5) feet of a door thereof. (Ord. 548 §11(C), 1974).

14.09.120 Service buildings

Each trailer court shall be provided with one or more service buildings adequately equipped with at least one flush-type toilet for females and one for males.

Each trailer court which permits any dependent trailer coaches to park therein shall provide in the service buildings the following additional facilities, to-wit: at least two toilets for females, one toilet for males, two lavatories and one shower for each sex, a urinal for males, and a slop water closet.

To serve more than 20 dependent trailer coaches, additional fixtures shall be provided in the ratios set forth below:

Toilet facilities for females shall consist of at least one flush-type water closet for every ten dependent trailer coaches; toilet facilities for males shall consist of one flush-type water closet or urinal for every ten dependent trailer coaches. Urinals shall be substituted for not more than one-third of the toilet fixtures required for men. Each water closet shall be in a private compartment.

A lavatory for each sex shall be provided for every ten dependent trailer coaches; a bathtub or shower for each sex shall be provided for every twenty dependent trailer coaches. Each bathtub or shower shall be in a separate compartment.
A slop-water closet shall be provided in a separate room in the service building.

Toilet facilities for males and females shall be separated. If located in the same building, said facilities shall be separated by sound resistant walls.

Each service building whether for dependent or independent coaches shall:

1) Be located not more than 200 feet from any dependent trailer coach and at least 15 feet from any trailer coach.

2) Be of permanent construction, and shall be provided with adequate light, heat, and ventilation.

3) Have its interior of moisture-resistant material to permit frequent washing and cleaning.

4) Have all rooms well ventilated with all openings effectively screened.

5) Laundry facilities shall be provided in the ratio of one unit for every 20 trailer coaches. Drying space in the ratio of 50 sq. feet to each coach space or other adequate clothes drying facilities, including mechanical clothes dryers, shall be provided to accommodate the laundry of the trailer court occupants. (Ord. 422 §7, 1960).

CHAPTER 14.10 INSPECTIONS

14.10.010 Building inspector and duties generally

The Building Inspector is hereby authorized and directed to make inspections to determine the condition of mobile home and travel trailer parks within the City, in order that he may perform his duty of safeguarding the health and safety of occupants of mobile home parks and of the general public. (Ord. 548 §14(part), 1974).

14.10.020 Register inspection

The Building Inspector shall have the power to inspect the register containing a record of all mobile homes, trailers and occupants using the parks. (Ord. 548 §14(part), 1974).

14.10.030 Right of entry for enforcement

The Building Inspector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of regulation set forth in the chapter with owner's permission. (Ord. 548 §14(part), 1974).

14.10.040 Owner or occupant duty to grant access for inspection

It shall be the duty of the owners of occupants of parks and mobile homes and trailers contained therein, or of the person in charge thereof, to give the Building Inspector free access to such premises, upon notice to the management, at reasonable times for the purpose of Inspection. (Ord. 548 §14(part), 1974).

14.10.050 Occupant duty to permit access for repairs or lawful orders

It shall be the duty of every occupant of a park to give the owner thereof or his agent or employee access to any part of such park or its premise at reasonable times for the purpose of making such repairs or alterations as are necessary to effect compliance with this chapter, or with any lawful order issued pursuant to the provisions of this chapter. (Ord. 548 §14(part), 1974).

14.10.060 Violation of inspections

Whenever any inspection reveals that conditions or practices exist which are in violation with any provision of this ordinance, or any ordinance of the City of Rexburg, Idaho, or law or laws of the State of Idaho, the inspecting officer shall give notice in writing to the person in charge of such trailer court of trailer housing, and unless such conditions or practices are corrected within a reasonable period of time, such period of time to be determined by the inspecting officer, the trailer court of trailer housing shall cease operation. (Ord. 422 §4(part), 1960).

CHAPTER 14.11 VARIANCES

14.11.010 Conditions for approval

The Planning Commission may approve a variance to any portion of the standards of design or required improvements set forth herein where the applicant can show that:

1) Because of topographical or other conditions peculiar to the site a departure may be made without destroying the intent of such provisions; and

2) The granting of the variance will not be detrimental to the public welfare nor injurious to other property in the vicinity in which the mobile home park is situated. (Ord. 548 §15(part), 1974).

14.11.020 Application for approval

Application for a variance shall be made to the City Planning Commission. (Ord. 548 §15(part), 1974).

14.11.030 Documentation and transmittal of request

The reasons for granting any variance shall be stated in writing in the minutes of the Planning Commission. A copy of said minutes shall be transmitted to the City Council for its consideration prior to granting approval or issuance of a business license to operate an existing mobile home park. (Ord. 548 §15(part), 1974).

CHAPTER 14.12 NONCOMPLIANCE AND SEVERABILITY

14.12.010 Enforcement

An enforcing officer shall be appointed by the Mayor and City Council and such officer shall be responsible for the enforcement of the provisions of this ordinance. (Ord. 548 §1A, 1974).

14.12.020 Severability

If any provisions of this Ordinance or the application thereof to any persons or circumstances are held invalid, the remainder of the Ordinance or the application or provisions to other persons or circumstances shall not be affected thereby. (Ord. 548 §2A, 1974)

It is not intended by this Ordinance to impair or interfere with other regulations of State or Local law, or with private restrictions on the use of land, improvements, and structures.
Where this Ordinance imposes greater restriction than that imposed by other law or private restrictions, this Ordinance shall prevail.

Ordinance No. 422 and all other ordinances or parts or ordinances in conflict herewith are hereby repealed upon the effective date of this ordinance. (Ord. §3A, 1974)

14.12.030 Violation – Penalty

Any person, firm or corporation violation any of provisions of this ordinance shall be deemed guilty of a misdemeanor, and shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this ordinance is committed, continued or permitted. (Ord. 548 §4A (A), 1974).

Upon conviction of any violation of any of the provisions of this ordinance such persons shall be punished by a fine of not more than One Hundred Dollars, ($100.00) or by imprisonment for not more than thirty (30) days, or both such fine and imprisonment. (Ord. 548 §4A (B), 1974).

TITLE 15 BUILDINGS REGULATIONS

Title 15 sets forth building and construction regulations relative to excavations, gas, fire, flood, etc.

For statutory provisions authorizing cities to adopt nationally recognized codes by reference, see Idaho Code §50-901.

CHAPTER 15.01 BUILDING CODE*

*Note to Chapter 15.01: For statutory provisions authorizing cities to adopt nationally recognized codes by reference, see Idaho Code §50-901.

15.01.010 Uniform Building Code adopted by reference – Copies on file

That certain documents, three (3) copies of each code of which are on file in the office of the City of Rexburg, Community Development Department of the City of Rexburg, being marked and designated as the *International Building Code, 2003* edition, the *International Residential Code 2003* edition, the *International Mechanical Code 2003* edition, the *International Fuel Gas Code 2003* edition and the *International Energy Conservation Code 2003* edition, all published by the International Code Council and the *Uniform Plumbing Code 2003* published by the International Association of Plumbing and Mechanical Officials **are hereby adopted as the Building Code of the City of Rexburg**, in the State of Idaho for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such structures as herein provided: proving for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and term of said Building Code on file in the office of the City of Rexburg Community Development Department are hereby referred to adopted and made a part hereof as if fully set out in this ordinance, with the additions, insertions and deletions and changes, if any, prescribed in Section 2 of this ordinance. (Ord. 932 §1, 2005).

15.01.020 Amendments

The following sections are hereby revised:

1) For the *2003 International Building Code*, the following sections are hereby revised:

    a) Section 101.1. Insert: City of Rexburg, Idaho

    b) Section 101.4.1. Replace the language “ICC Electrical Code” with the following: Electrical Code as most currently adopted by the State of Idaho

    c) Section 101.4.4. Replace the language “International Plumbing Code” with the following: 2003 Uniform Plumbing Code as published by International Association of Plumbing and

Mechanical Officials AND the current edition of the Pacific Northwest Section of American Water Works Association (AWWA) Manual.

d) Section 1612.3. Insert: City of Rexburg, Idaho

e) Section 1612.3. Insert: January 1st, 2005

f) Section 3410.2. Insert: January 1st, 1985

2) For the *2003 International Residential Code*, following sections are hereby revised:

a) Section 101.1. Insert: City of Rexburg, Idaho

b) Table R301.2 (1) Insert: Ground snow; 50 lb, Wind Speed; 90 mph, Seismic Design Category; D-1, Weathering; Severe, Frost line depth; 36 inches, Termite; slight, Decay; none, Winter Design Temp; -5°, Ice Shield Underlayment Required; Yes, Flood Hazards; FIRM Map dated 6/3/1991, Air Freezing Index; 2000, Mean Annual Temperature; 42°.

c) Section R309.2 Delete the first sentence that reads: The garage shall be separated from the residence and its attic area by not less than ½" gypsum board applied to the garage side. Insert in place of the first sentence: The garage shall be separated from the residence and its attic area by not less than 5/8" "Type X" gypsum board applied to the garage side. Section R403.1.2. Delete: Entire section. Insert: All footings to have minimum of 2 #4 horizontal rebar tied in place at a minimum of 3" above soil. All vertical rebar required in stem walls or foundation walls resting on the footing, shall be in place at time of placement of concrete in footing forms.

d) Section R404.14. Delete: Entire section. Insert: All concrete or masonry foundation walls constructed at a height equal to or lower than 4' shall be constructed with a minimum of #4 rebar spaced at 24" o.c. horizontally and #4 rebar spaced at 48" o.c. vertically. The vertical bars shall have a minimum bend of 6 " with the bends rotated in each alternately in each direction. Delete Chapters 25 thru 43. The State of Idaho mandates that the Plumbing Code be the 2003 Uniform Plumbing Code. The governing Electrical Code shall be that as most currently adopted by the State of Idaho.

3) For the *2003 International Mechanical Code*, following sections are hereby revised:

a) Section 101.1. Insert: City of Rexburg, Idaho

b) Section 106.5.2. Insert the following: The Mechanical Fee Schedule shall be as per State of Idaho Statutes, Title 54, Chapter 50, Installation of Heating, Ventilation and Air Conditioning Systems – 54-5017. Permits – Applications – Fees, or as the same may from time to time be modified. A copy of which shall be kept at the City of Rexburg Community Development Department.

c) Section 106.5.3. Insert: 50% in both locations

d) Section 108.4. Insert: misdemeanor punishable by fines of $300 per day and up to 30 days in jail.

e) Section 108.5. Insert: $200 (minimum fine) and $2000 (maximum fine).

4) For the *2003 International Fuel Gas Code,* following sections are hereby revised:

a) Section 101.1. Insert: City of Rexburg, Idaho

b) Section 106.5.2. Change Section to read : Fees are covered elsewhere

c) See Section 106.5.2. of the *2003 International Mechanical Code*

d) Section 106.5.3. Insert: 50% in both locations

e) Section 108.4. Insert: misdemeanor punishable by fines of $300 per day and up to 30 days in jail.

f) Section 108.5. Insert: $200 (minimum fine) and $2000 (maximum fine).

5) For the *2003 International Energy Conservation Code,* following sections are hereby revised:

a) Section 101.1. Insert: City of Rexburg, Idaho

6) For the *2003 Uniform Plumbing Code,* Insert the following: The Plumbing Fee Schedule shall be as per State of Idaho Statutes, Title 54, Chapter 26, Plumbing and Plumbers – 54-2619. Municipal Fees For Permits, Inspections – Exceptions and in accordance with IDAPA 07 Title 2 Chapter 03, or as the same may from time to time be modified. A copy of which shall be kept at the City of Rexburg Community Development Department. (Ord. 932 §2, 2005).

15.01.030 Fees

All applicants for construction of, repair of, and/or remodeling of any building or the removal or demolition of any building shall pay to the city clerk fees established by the city council. (Ord. 688, §4, 1989).

That building permit fees and other inspection fees not identified in Section 2 above, shall be collected at time of Building Permit issuance and shall be as identified by Table 1A of the 1997 Uniform Building Code. (Ord. 932 §3, 2005).

Building permit, electrical permit, mechanical permit, and plumbing permit fees can also be found in Resolution 2007-03.

15.01.040 Severability

That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the ordinance. The Rexburg City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional. (Ord. 932 §5, 2005)

That nothing in this ordinance or in the Building Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed as cited in Section 2 of this ordinance: nor shall any just or legal right or remedy of any character lost, impaired or affected by this ordinance. (Ord. 932 §6, 2005)

15.01.050 Violation – Penalty

Any person, firm, or corporation violating any provision of the Building Code as described in Section 1 of this document, shall upon conviction thereof, be punishable by a fine not to exceed Three Hundred Dollars ($300.00) or by imprisonment for not more than Six (6) Months, or by both said fine and imprisonment for any single violation, in addition to any penalty for any sanction provided for in the adopted Building Code as described in Section 1 of this document. Each day of violation shall constitute a separate offense. (Ord. 932 §8, 2005).

CHAPTER 15.02 LIFE SAFETY

15.02.010 Life safety issues

1) Every floor above the first story or basement used as apartments serving over 12 persons shall have a minimum of two exits. One of these exits for an upper floor may be a fire escape built to the standards set forth in Section 3407.4 of the 1997 Uniform Building Code (UBC), which is attached to the back of this document. An exit ladder device may be used in lieu of a fire escape when approved by the City of Rexburg Fire Department. For apartment units requiring two exits that have a floor level of not more than 20 feet above grade and basements apartments requiring two exits, one exit will be allowed when all bedrooms have egress windows that meet the requirements of item No. 8 in this list, but also must have a minimum opening area of 5.7 square feet. All doors or windows providing access to a fire escape shall be provided with fire escape signs. Exit signs shall be provided at exits where more than one exit is required and in corridors used for exiting from multiple units. Exit signs shall be as per the 1997 Uniform Building Code. Primary entrance to an apartment is not allowed through a garage. A one-hour firewall may be erected to separate the apartment entrance from the garage. If a door is needed from the apartment entrance firewall to the interior of the garage, it must be a door as described in item No. 3 below.

2) All stairs used as part of an exit shall have a minimum riser height of 8”, a minimum run of 9” and a minimum width of 30” (exclusive of handrails). An 8-1/2” riser will be allowed if the minimum tread is increased to 10”. Every stairway with over 3 risers shall be provided

with a handrail. All stairs require landings with a minimum dimension of 30” run in direction of travel at each point of access to stairwell. All stairwells will have a minimum 6’6” headroom.

3) Exit corridors serving occupant loads of 30 or more occupants shall have walls and ceilings of not less than one-hour fire resistive construction. Wood lath and plaster of ½” drywall in good condition are permitted as substitution for one layer of 5/8” type X drywall in corridor construction. Openings with fixed wired glass set in steel frames are allowed in corridors. Doors entering in to corridors (with exception of those opening directly outside) shall be 20-minute fire rated assemblies, or solid wood doors not less than 1 ¾” thick. Where the existing frames will not accommodate a 1 ¾” thick solid wood door, a 1 3/8” thick solid bonded wood-core door or equivalent insulated steel door shall be permitted. Doors shall be self-closing or automatic closing by smoke detectors. Transoms must be covered with ½” drywall unless approved by the City Building Official. The City Building Official may nullify the above corridor requirements when an approved sprinkler system is provided.

4) Interior vertical shafts, including but not limited to stairways, elevator hoistways, service and utility shafts, shall be enclosed by a minimum of one-hour fire-resistive construction. All openings into such shafts shall be protected with one-hour fire assemblies that shall be maintained self-closing or be automatic closing by smoke detection. All other openings shall be fire protected in an approved manner. Existing fusible link-type automatic door-closing devices may be permitted if the fusible link rating does not exceed 135 F (57.2 C).

   EXCEPTIONS:
   a) An enclosure is not required for openings serving one adjacent floor.
   b) Vertical openings need not be protected if the building is protected by an approved automatic sprinkler system.

5) An approved sprinkler system shall be installed in basements or stories exceeding 1,500 square feet of habitable area and not having a minimum 30” x 80” door or a minimum 30” x 42” window in every 50 lineal feet of exterior wall (or fraction thereof) on at least one side of the building. A sprinkler system shall be installed in any portion of the basement or upper story that is over 75 feet from opening as described above.

6) One hour dwelling separation shall be provided between all apartment units. Wood lath and plaster and ½” drywall is acceptable as one hour separation when in good shape and continuous on both sides of walls and on ceilings, provided the floors above are of a double layer variety. Buildings with sprinkler systems have different area separation requirements. Consult the City of Rexburg Building Official for more information.

7) Window egress is required. Each bedroom will have a window that meets the minimum size requirements of 20” wide, 22” high. The windows will not be required to meet the minimum opening area of 5.7 square feet. A permanent object (foot locker or seat) will be allowed to be built against a wall below a window to allow sill heights greater than 44”. Window wells are required to have a clear opening 24” in front of window and to have steps if window well

is deeper than 44”. Window wells are required to have a clear opening 24” in front of window and to have steps if window well is deeper than 44”. Door hardware must not be able to be locked so that it cannot be opened from the inside without the use of a key or some special knowledge. Aisles, corridors and hallways or any part of the exit, exit access or exit discharge shall not be blocked and shall be a minimum of 30” wide. Stairs shall be secure. Guardrails shall be installed at any walking surface adjacent to a drop of 30” or greater. Doors or any part of exit, exit access or exit discharge to be in operable condition.

8) Exit and access to fire extinguisher shall be unobstructed. Garbage and trash need to be removed from the premises on a timely basis. Outside trash containers must be kept at a proper distance from buildings for fire safety.

9) All apartments shall be equipped with an approved wall mounted fire extinguisher. The minimum size is a 2A-10BC, unless a smaller 1A extinguisher already exists. The existing 1A shall be replaced when it is 6 years old with a 2A-10BC, therefore, all apartments 1A fire extinguisher shall be replaced before 6 years from the adoption date of this Life Safety Code. The extinguisher shall be mounted in a conspicuous location near the kitchen. Extinguishers must also be accessible in common areas such as computer rooms, lounges, game rooms, laundry rooms, etc. Extinguishers shall have monthly inspections by owners or manager. Apartment owners shall create and maintain a program for monthly extinguisher inspections.

10) Smoke detectors shall be provided in each sleeping room and one additional detector at each floor of each unit. The detectors shall be placed on a wall near ceiling but not closer than 6” of the ceiling. Smoke detectors may be battery operated or may receive their primary power from the building wiring when such wiring is served from a commercial source. Wiring shall be permanent and without disconnecting switches other than those required for overcurrent protection. Each apartment owner or manager shall check detectors monthly for operation and for battery function. Apartment owners or managers must create, maintain and document a program for monthly detector inspection.

11) Romex or other wire for greater than 100 volt use shall be encased in a wall, floor, ceiling cavity or in any NEC approved conduit or chase. Open wiring is not allowed. Electrical panel doors must be able to be closed and latched. All openings in the service panels must be plugged. All outlets and switches will have covers. All electrical connections will be provided with a junction box and cover. No frayed wires will be allowed. All outlets in bathrooms, kitchens, garages and outdoors to be replaced with properly sized units. All wire entrances into metal boxes will be made with NEC approved connectors. Over loaded panels must be replaced with adequate services. Electrical conduits to be fastened securely to structure. Overhead wires from out buildings to be at least 10’ above any ground surface (including decks or raised walking surfaces). All stairs between floors to be provided with lighting. Exterior stairs to be provided with lighting. Heating system shall not require the use of portable electric heaters to adequately heat building. All light fixtures are required to have canopies and to be securely attached to structure. Extension cords are not allowed to replace proper wiring. Electrical in general to be in safe working manner. State Electrical Inspector to inspect when any question arises.

12) Require all gas meters, pipes or appurtenances to be protected from vehicles. Require combustion air to gas appliances located in small, unventilated rooms. Require gas water heaters greater than 4' tall with flexible connections to be strapped to structure. Require 2" minimum space for flue vents from any combustible construction. Require 24" clear space in front of water heaters and furnaces. This requirement may be met by the opening of a door or an access panel. Gas water heaters or furnaces located in a bedroom or a bedroom closet must be totally isolated from the bedroom with a tight fitting door and must receive combustion air from another source besides the bedroom. Require proper clearance for heating equipment (water heaters and furnaces). Require that all high efficiency gas furnace flue discharge points be located in areas that are not below doors or windows that can be opened or within 4' from such windows or doors. Storage or trash shall not be allowed within 24" of gas water heater or furnace. Gas water heater and furnace flues must be connected with a least 3 screws at all joints and must be tightly installed. Require that all gravity venting between 45° and 60° be considered as horizontal venting and require that the total run of horizontal vent be less than 75% of the vertical height of the vent. Potable gas heaters are not allowed. Corroded pressure relief valves must be replaced.

13) Require back flow prevention for lawn sprinkler systems.

14) All wooden structural components (headers, beams, columns, rafters, trusses, joists, bearing walls etc.) to be free of stress cracks, fastened securely and free of rot. Steel and concrete structural components (beams, columns, slabs, girders, purlins, girders, footings, etc) to be free from defects, stress cracks, strain or fatigue that could cause loss of structural integrity. Roof to be without leaks.

15) Address must be posted on buildings so that it is clearly visible from the street in a manner that is compliant with Emergency Services. Contact Emergency Services for more information. (Ord. 851 §2, 2001).

15.02.020 Administration and appeal

The above list is not intended to address every safety issue that may present itself. The inspector at his/her discretion may identify additional safety items that need to be remedied. Situations may arise that can't be feasibly remedied to satisfy this list. If at any time an owner or manager thinks that the inspection requests are excessive or unnecessary he/she may submit the matter to the Rexburg U.B.C. Board of Appeals for review. The Board will then make their recommendations to the City of Rexburg City Council. The Council will have final say on the matter.

If the owner or manager of an apartment complex has reason to think that alternative technology may satisfy the requirements of any of the Life Safety Issues, he/she may submit the idea to the City of Rexburg Building Official for review. If the Official rejects the alternative, the owner or manager may opt to submit the matter to the Rexburg U.B.C. Board of Appeals for review. The Board will then make their recommendations to the City of Rexburg City Council. The Council will have final say on the matter.

The inspector will notify the State of Idaho Electrical Inspector if any electrical problems exist that are out of the inspector's area of expertise. It is our intent to have only one inspector represent the City of Rexburg at the time of inspection. The Fire Department, the Building Department, the Water Department and Wastewater Department will combine and supply training for one inspector from the Building Department and one from the Fire Department. The intent is to have two trained inspectors with one acting as regular and the other as a back-up.

All apartments seeking a new business License from the City of Rexburg shall be inspected and given 3 months to establish a plan of compliance. The owner shall have another 3 months to perform work, at which time an inspection by the City of Rexburg shall be called for. License will not be granted until work is completed satisfactorily according to the plan of compliance, at which time if owner is not compliant, such premise shall be vacated. All apartment owners in the City of Rexburg not seeking a new business license will be sent notices to supply the City of Rexburg Clerk with a proposal for compliance within 18 months of notice. Initial inspections will be scheduled at this time. Owners will have 3 years from original notice to complete work and have it inspected by the City for compliance or such premise shall be vacated until made to conform. (Ord. 851 §3, 2001).

15.02.030 Violation – penalty

Any person who violates or fails to comply with any of the provisions of this Ordinance or who, having obtained a permit hereunder, willfully fails to continue to comply with the conditions set forth in this ordinance is guilty of a misdemeanor, and upon convictions thereof, may be fined in accordance with State Statutes. (Ord. 851 §4, 2001).

CHAPTER 15.03 EXCAVATIONS

15.03.010 Standards applicable

Where not otherwise specified in this code, all materials and equipment used in the construction of public works in the city shall meet the standards as set forth in and approved by the American Society for Testing Materials. (Ord. 530 §3, 1972).

15.03.020 Permit – Required – Recordkeeping – Fee

No person shall hereafter make any excavation in any street, alley, or easement of the city without first having obtained a permit so to do from the city clerk, said permit to be issued in triplicate and a copy thereof delivered by the city clerk to the water department superintendent, a copy of the permit shall be filed, and kept on file, with the city clerk for a period of not less than five years after its issue. The city council, by resolution, shall set a fee to be charged the applicant by the city clerk and paid by the applicant before the issuance of the permit. (Ord. 647 §1, 1982; Ord. 565 §1, 1975; Ord. 530 §1(A), 1972).

15.03.030 Permit – Application – Notice of commencement of work

Applications for permits may be made in person, by telephone, or by other medium of communication, but if the application is not made in person then the permittee or his/its qualified agent shall appear at the office of the city clerk-treasurer to execute the permit papers and file the

necessary bond required in Section 15.03.040 not later than noon of the first working day following the application and before any excavation shall commence. Regardless of when any permit to excavate is issued, the permittee shall give notice to the city clerk-treasurer not more than twenty-four hours nor less than two hours before the time when the excavation is to commence. (Ord. 565 §3, 1975; Ord. 530 §1(C), 1972).

15.03.040 Permit – Bond

No permit shall be issued for any excavation unless the applicant shall present with the application, or file with the city clerk-treasurer, a bond in an amount sufficient to reconstruct said street, alley or easement as hereinafter in this chapter provided. The amount of said bond shall be fixed and determined by the street department superintendent, who shall make an estimate of the cost of such reconstruction of the street, alley or easement. In the event the applicant fails to reconstruct the street, alley or easement as hereinafter set forth, the city may proceed to do so and the cost thereof shall be paid from the bond filed by the applicant. (Ord. 565 §2, 1975; Ord. 530 §1(B)(a), 1972).

15.03.050 Permit – Insurance required

No permit shall be issued for any excavating unless the applicant shall present with the application, or have on file with the city clerk-treasurer, a certificate of insurance from an insurance company qualified to write contracts within the state, certifying that the applicant has public liability insurance with limits not less than five thousand dollars for property damage and not less than twenty thousand dollars per person and one hundred thousand dollars per occurrence for injury to the person, including death. All permits of any permittee shall be revoked immediately upon cancellation or expiration of the insurance. (Ord. 530 §1(B), 1972).

15.03.060 Backfilling and asphalt repairs – Specifications – Permittee responsibility

The permittee shall be responsible for the backfilling and permanent asphalt repairs of the street, alley or easement in accordance with standard specifications on file in the office of the engineer. (Ord. 530 §1(D), 1972).

15.03.070 Safeguarding and maintenance responsibility

It shall be the responsibility of the permittee to provide continuous maintenance and proper safeguards to the excavation until a permanent patch is completed and accepted by the street department. (Ord. 530 §1(E), 1972).

15.03.080 Asphalt repairs – Completion time

Permanent asphalt repairs will be completed not later than ten days after the excavation has been backfilled, weather conditions permitting. In the event weather conditions prohibit permanent repairs, the street superintendent may authorize temporary cold patches to be replaced by the applicant when weather permits. (Ord. 530 §1(F), 1972).

15.03.090 Asphalt repairs – Performed by city when – Costs

In the event the permittee does not make repairs within ten days after completion of backfill, the city may, at its election, complete the work and make such repair. In the event the repairs are

completed by the city, the permittee agrees to pay to the city, within five days after determination of the amount, the cost of the city's repairs, based upon actual charges and cost to the city of repairs at the time the repair was completed. (Ord. 530 §1(G), 1972).

15.03.100 Precautions to prevent injury required – Penalty for failure to provide

1) Any person who shall make any excavation along or upon any of the streets or alleys of the city shall use all necessary precautions to prevent injury to any person lawfully upon said streets.
2) Any person who makes any opening or excavation upon any of the public streets of the city and who fails to protect the public by proper warnings shall be deemed guilty of a misdemeanor. (Ord. 530 §2, 1972).

15.03.110 Violation deemed misdemeanor

Any person who shall make any excavation upon any of the public streets, alleys or easements of the city in violation of the terms of this chapter shall be deemed guilty of a misdemeanor. (Ord. 530 §1, 1972).

CHAPTER 15.04 ELECTRICAL CODE*

*Note to Chapter 15.04: For statutory provisions authorizing cities to adopt nationally recognized codes by reference, see Idaho Code §50-901.

15.04.010 Electric code adopted by reference

That the document known as the National Electrical Code, copyrighted by the National Fire Protection Association, 1996 Edition, together with the amendments and revisions thereof, with the inclusion of appendices, is hereby adopted as the Electrical Code of the City of Rexburg, Idaho. Said Code provides for regulating and controlling the design, installation, quality of material, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of electrical systems, wires, circuit, motors, or other miscellaneous electrical equipment except as otherwise provided in said Code. (Ord. 785 §1, 1996).

15.04.020 Copies on file

There has been on file and there shall hereafter be kept on file, in the office of the Clerk or City Engineer three (3) copies of said National Electrical Code, 1996 Edition, duly certified by the Clerk, for use and examination by the public. (Ord. 785 §2, 1996).

CHAPTER 15.05 GAS INSTALLATIONS

15.05.010 Definitions

As used in this chapter:

1) Gas: means natural gas, manufactured gas, hydrocarbon gas, or any mixture of gases produced, transmitted, distributed or furnished by any gas utility or agency.

2) Gas installations: means the installation of all facilities for producing, transmitting and distributing gas, and all accessory equipment, appurtenances and appliances necessary for the control and utilization of gas. (Ord. 455 §1, 1965).

15.05.020 Gas production facilities

Section 3 of Ordinance no. 1054, adopting part of General Order No. 98 of the State of Idaho Public Utilities Commission, is hereby adopted and the same is hereby made a part hereof insofar as the provisions of said Section 3 of Ordinance No. 1054 are applicable to the installation and maintenance of gas facilities in buildings. (Ord. 455 §2(a), 1965).

15.05.030 Construction, operation and maintenance facilities for transmission and distribution

Section 2 of Ordinance No. 1054 adopting ASA B31.1.8 - 1959, as so adopted by Section 2 of Ordinance No. 1054, is made a part hereof insofar as the same is applicable to the installations and maintenance of gas facilities in buildings. (Ord. 455 §2(b), 1965).

15.05.040 Gas installations in buildings, adoption of N.B.F.U. pamphlet No. 54 as Gas Code

The National Board of Fire Underwriteres Pamphlet 54, printed in book form, as amended by adding a new subsection >A@ to Section 2.4.1 (page 6), which said amendments are attached to and contained in said Pamphlet 54 printed in Code form, and are a set of rules and regulations of ordinances printed as a book in code form, regulating the construction, installation, and maintenance of gas piping and gas appliances in buildings, and said National Board of Fire Underwriters Pamphlet 54 being a general and permanent character, as shown by three (3) copies thereof now on file in the office of the City Clerk, is hereby ratified and adopted as ordinances of Rexburg, and part of this ordinance, as regulating gas piping and gas appliances in buildings. (Ord. 455 §2(c), 1965).

15.05.050 Permit – Required

It is unlawful for any person, firm or corporation to do or cause or permit to be done, whether acting as principal, agent or employee, any gas installation work of any nature in buildings or service lines thereto without first procuring a permit from the building inspector authorizing such work to be done. (Ord. 455 §3(a), 1965).

15.05.060 Permit – Not required for certain work

A permit shall not be required for the clearing of stoppages or repairing of leaks in pipes, valves, or fixtures when such repairs do not involve or require the replacement of rearrangement of pipes, valves or fixtures. It shall be required, notwithstanding, that work of this nature be performed by persons qualified under this chapter as competent to do such work. (Ord. 455 §3(b), 1965).

15.05.070 Permit – Application – Information required

Any person, firm or corporation legally entitled to receive a permit shall make application at the building inspector's office on the form provided. A description of the work proposed to be done, and location, ownership, occupancy and use of the premises shall be given. The building

inspector may require plans and specifications and other such information as may be deemed necessary and pertinent for examination before granting the permit. When it has been determined that the information furnished by the applicant is in compliance with this chapter, the permit shall be issued, upon payment of the required fees as hereinafter fixed. (Ord. 455 §3(c), 1965).

15.05.080 Permit – Cost – Inspection fee

The applicant shall pay for each permit issued, at the time of issuance, a permit fee, plus an inspection fee in accordance with fees set by the city council.

15.05.090 Inspection – Requirements generally – Piping and pressure tests

All pipes, fittings, vales, vents, fixtures and appliances shall be inspected by the building inspector or is designated and qualified agent to assure compliance with the provisions of this chapter. The following inspections shall be made:

1) Piping inspection, to be made after all piping and venting authorized by the permit has been installed, and after the permit holder has assured himself that the system will meet the test, but before any such piping has been covered or concealed, and before any gas appliance has been attached thereto; at which time:

2) The pressure test prescribed in Section 2.12 of the National Fire Protective Association Code No. 54 of 1969 shall be made by the permit holder in the presence of the inspector, to be made after all piping and venting is completed and all appliances authorized by the permit have been place and connected, and before gas is admitted to the system. (Ord. 524 §2, 1972; Ord. 455 §4(a), 1965).

15.05.100 Inspector qualifications and supervisory authority

The Rexburg city installation inspector shall be under the supervision of the fire department. The inspector furnished by the city shall pass the examination for a gas-fitting contractor by the examining board; there will be no charge by the city for such examination. (Ord. 455 §4(g), 1965).

15.05.110 Inspection – Installations completed before passage of chapter provisions

All gas installations completed prior to the passage of the ordinance codified in this chapter must be inspected and have an inspection tag securely attached as hereinabove provided, to show compliance with this chapter, and in order to bring substandard installations up to the standards herein provided, for the benefit of the health, safety and protection and general welfare of the public. (Ord. 455 §4(f), 1965).

15.05.120 Inspection – Notification of readiness required – Reinspection fee

It shall be the duty of the permit holder to notify the building inspector at least four hours prior to the time of inspection, exclusive of Saturdays, Sundays and legal holidays, that he is ready for such inspection. When reinspection is required, after the final inspection as before described, it shall be made at a flat charge of two dollars per reinspection. (Ord. 455 §4(d), 1965).

15.05.130 Inspection – Certification

The building inspector shall either approve that portion of the work completed at the time of inspection, or shall notify the permit holder of wherein the same fails to comply with this chapter; and when final inspection has been made and the work approved, the building inspector shall certify to the gas company or utility supplying gas to the premises, by attaching securely an inspection tag at the approximate location of the appliance, that such inspection has been made and the system found satisfactory as required by this chapter and ready for the setting of a gas meter or meters. (Ord. 455 §4(b), 1965).

15.05.140 Inspection – By gas supplier – Right of entry

The right is reserved for entry to the premises by the gas company or utility, and it shall be required that said supplier make its own inspection of all facilities before connecting the meter and admitting gas to the system. The gas company or utility shall make a second inspection of all facilities after gas is admitted to the system to assure, in the presence of the permit holder, the proper functioning of the system and all appliances. (Ord. 455 §4(c), 1965).

15.05.150 Restrictions for turning on gas

It is unlawful for any person to turn on gas in any building unless all outlets are properly connected or capped with screwed fittings; and further, it is unlawful for any person, except a qualified employee or agent of the company or utility furnishing gas to the premises, to turn on or connect gas service in any building or on any premises where and when gas service is not at the time being rendered; further, it is unlawful for any gas company or utility furnishing gas to set or cause to be set or connected any gas meter, or to turn on gas, until the inspector's certificate of inspection has been given as before stipulated. (Ord. 455 §4(e), 1965).

15.05.160 Installation work – Certification of competency required

It is unlawful for any person, firm or corporation to engage in the work or business of making gas installations unless such person, or a responsible person representing the firm or corporation as hereinafter in this chapter prescribed, has successfully passed an examination conducted by the board of examiners, and has had issued to him a certificate of competency by said board in accordance with provisions of this chapter. (Ord. 455 §5(a), 1965).

15.05.170 Classifications of competency designated – Qualifications

There shall be three classifications of competency as hereinafter defined:

1) Gas fitting Contractor: A gas fitting contractor shall be any person or firm skilled in the planning and supervision of the installation of gas piping, venting and equipment, who is familiar with the laws, rules and regulations covering the same, and who is competent to assume work on a contract basis and to direct the work of qualified employees. A gas fitting contractor who in person does gas fitting work shall also be qualified as a journeyman gasfitter.

2) Journeyman Gasfitter: A journeyman gasfitter shall be any person who, as part of his principal occupation, is engaged in the practical installation of gas piping and equipment, and

who is familiar with the code requirements governing the same, and who works under the direction of a gas contractor.

3) Apprentice Gas fitting: An apprentice gasfitter shall be any person, other than a journeyman, who as a part of his principal occupation is engaged in learning and assisting in the installation of gas piping and equipment. Apprentices shall not perform gas installation work except under the supervision of a licensed journeyman gasfitter. (Ord. 455 §5(b), 1965).

15.05.180 Gas fitting contractor – Insurance prerequisite to licensing

Every gas fitting contractor, before securing a license as hereinafter in this chapter provided, must post a certificate of insurance with the city, evidencing the insurance of the gas fitting contractor against property damage in an amount consistent with state regulations. (Ord. 455 §5(c), 1965).

15.05.190 Installation work – License requirements

Before any person, firm or corporation shall carry on or engage in the work or business of making gas installations, he shall procure a license applicable to the classification in which he proposes to work, and pay the annual license fee imposed on such classifications. The license shall not be transferable. Every applicant for a license shall present a certificate of competency or other identification as proof that he is entitled to or has been approved by the board of examiners as competent for the classification sought. If the applicant be a partnership, firm or corporation, the application shall be made by a bona fide member or agent thereof, who shall at all times be in actual charge of the applicant's gas installation business. When any person is designated and authorized to be or act as an agent for the applicant, such authorization shall be in writing, signed by the applicant and the person designated, one copy of which shall be filed with the examining board and one copy in the office of the city building inspector or the city clerk-treasurer. (Ord. 455 §5(d), 1965).

15.05.200 Violation – Penalty

Any person, firm or corporation that violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this chapter, upon conviction thereof shall be punishable as set forth in Chapter 1.02.020 of this code. (Ord. 455 §7, 1965).

CHAPTER 15.06 SIGN CODE*

*Note to Chapter 15.06: Prior Ordinance History: Ords. 528, and 775.
Use and Placement of Signs: Appendix 6, Schedule “B”

15.06.010 Definitions

1) Animated sign: A sign, any visible part of which moves, flashes, or changes color, regardless of the source of energy which causes the movement, flash, or, change of color.

2) Architectural blade: A roof sign or projecting sign with no legs or braces which is an integral part of the building structure, rather than an object added to or standing on the building.

3) Awning: A projecting cover extending over a door, window or wall section with supports attached to the building and used as cover, protection, or as decoration.

4) Background area: The area comprising the message portion of a sign, not including the supporting structure, shall constitute the Background area. When computing the area of sign background, any single piece flat sign shall be calculated by measuring one side even though both sides may be used for advertising. (For example a 4'x 8' flat sign will be considered a 32 square feet background area) For V shaped signs, or any other three dimensional sign shall have the area of sign background calculated by considering all sides of the sign facing the primary public right-of-way. This is irrespective of whether the back sides of the signs are used for advertising.

   a) On pole signs the supporting structure does not count as part of the area of the sign. The area calculated in the wind loads calculation for the pole sign is for all intents and purposes, the background area of the sign.

   b) On wall signs the background area of the sign is calculated by the following methods depending on which is most reasonably applicable as determined by the city.

      i) If only letters are being put on the wall then the area is computed by drawing rectangles around each letter to enclose the extremities of the letter, and then calculating the area enclosed within the rectangles.

      ii) If a cabinet or flat panel with letters is being put on the wall then the area is the area of the extremities of the flat panel or cabinet like structure.

      iii) If an area is painted out in a different shade or color on a wall (*not matching the general background of the rest of the building*) for advertising with lettering or graphics then the extremities of the entire painted out area will count as advertising area.

5) Billboard: See definition for Off Premise Signs.

6) Blanketing: The partial or complete shutting off of the face of one sign by another sign.

7) Building face or wall: All windows and wall area of a building on one elevation.

8) Canopy sign or marquee sign: A sign which is attached parallel to the faces of a canopy or marquee.

9) Changeable copy panel (reader board): A sign display which is characterized by copy or illustration which may be modified at periodic intervals, regardless of the method.

10) Construction sign: Any sign which warns people of construction or demolition for a project or which describes the project, builder, architect or others involved in the project.

11) Copy: Any combination of letters or numbers that are intended to inform, direct or otherwise transmit information.

12) Directional sign: Any sign which serves to designate the location or direction of any place or area.

    a) If logos are put on the directional signs they are calculated in the area of the directional sign. In addition the logos must be less area than the directional information to be considered a directional sign.

13) Free standing, detached or ground signs: A sign, which is wholly supported by columns or other vertical supports in or upon the ground (*not part of building structure)*

14) Frontage: Distance measured along the property line which fronts upon a street or alley. To constitute frontage, the street or alley must provide access to abutting properties.

15) Height of sign: The distance measured vertically from the finished elevation of the ground where the sign is placed to the highest point of the sign or sign structure, whichever is higher.

16) Illuminated sign: A sign which uses a source of light for illumination.

17) Lighted, direct: Lighting, the source of which is visible to a viewer.

18) Lighting, flood lit: Lighting, which is reflected from the surface of a sign or building.

19) Lighting, indirect or internal: Lighting for which the source of light is located in such a manner that the light must travel through a translucent material other than the bulb or tube necessary to enclose the light source, which material has the effect of dispersing the light before it strikes the eye of the viewer.

20) Off-premise sign: Any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, service, activity or place including products, or services sold or offered for sale on premise other than on the premises where such sign is displayed. (See schedule B for regulations)

21) Portable sign: A sign that is not affixed to the ground or another structure.

22) Projecting sign: A sign that projects from, and is supported by a wall of a building or other structure.

    a) If a sign is connected to wall it counts as part of wall signage

    b) If a sign is connected to pole it counts as part of free standing signage

23) Public service information sign: A sign which provides general public service information such as time, date, temperature, weather, directional information and messages of interest to the traveling public, and which are commonly used to augment business identification signs.

24) Real, estate or property for sale, rent or lease sign: Any sign pertaining to the sale, lease or rental of land or buildings.

25) Super graphics: Any abstract mosaic, mural or painting or graphic art technique or any combination thereof.

26) Swinging sign: A sign which is installed on an arm or spar, and which is not permanently fastened to an adjacent wall or upright pole.

27) Temporary sign: A sign which is intended to be displayed for a period of time not to exceed sixty (60) days and is not permanently affixed. All devices such as banners, pennants, flags (not intended to include flags of any nations), search lights, twirling or sandwich type signs, sidewalk or curb signs and balloons or other air or gas filled figures.

    a) Unless otherwise regulated in this code (*such as construction sign or real estate or property for sale, rent or lease sign)* temporary signs must be reviewed by the planning and zoning administrator for approval before being put up.

    b) Temporary signs must be recorded and logged in at the city with the approval of the planning and zoning administrator unless the said authority deems otherwise do to the nature of the event or other contributing factors.

    c) In general, temporary signs are reserved for limited activities important to the citizens of the City of Rexburg. In addition in general temporary signs should be out of the right-of-way, 32 sq. ft. or less and in good taste for the surrounding environment. The planning and zoning administrator for a limited time may approve exceptions to this. If the planning and zoning administrator deems the sign to exceed the general limits and intent of this sign code the said administrator may deny the temporary sign, or refer the applicant to apply for a conditional use permit.

    d) Examples of uses of temporary signs are for big events such as the Folk Dance Festival, Rexburg Rush, close out sales, going out of business sales, elections or other events held at limited allotted times of year.

28) Under canopy or marquee: A sign suspended below the ceiling or roof of a canopy or marquee.

29) Wall Signs: A sign placed on the wall of a *building* as defined in the Rexburg City Planning and Zoning Ordinance.

a) For flat plane building structures the wall area can only be calculated by walls parallel and seen from one standard orthographic elevation view. No other walls can be added to this area in calculating the area of a sign allowed for that wall.

b) For dome or curved structures the wall signs cannot exceed the prescribed area of the curved or dome like structure as seen from a standard orthographic elevation view. (Ord. 908 (Schedule "A"), 1993).

15.06.020 Safe sign construction

The development of better sign construction and to provide minimum standards to safeguard life, health, safety, property and public welfare by regulating size, height, and structural requirements for all signs and sign structures outside of buildings and visible from the public right-of-way. (Ord. 908 §2, 1993).

15.06.030 Clear view of intersecting streets

No sign may be placed or constructed so that any portion thereof is placed or projects into any public right-of-way. For the purpose of ensuring reasonable visibility and safety this ordinance shall prohibit the placement of signs within the sight triangle. The sight triangle applies to corner lots on intersecting City streets. The sight triangle is defined as follows: The triangle of land formed on any corner lot by drawing two (2) lines, starting at the same afore mentioned corner point heading away from each other along the lot lines, right-of-way lines, or prescribed right-of-way lines (whichever is applicable), a distance of thirty (30) feet and then connected by a diagonal line along the endpoints of the two (2) drawn lines forming a triangle. (Ord. 908 §3(1), 1993).

15.06.040 Maximum height

The maximum height of any free standing sign shall be twenty-four (24) feet from ground level to the top of the sign. On lots where a 24 foot free standing sign is allowed and the building height is greater than 24 feet, the maximum height of a free standing sign may be reviewed under a Conditional Use Permit for a taller free standing sign not to exceed the building height. (Ord. 908 §3(2), 1993).

15.06.050 Permits and fees

1) Permits Required. Except as otherwise provided in this Code, it shall be unlawful for any person to erect, construct, enlarge, move or convert any sign in this City, or cause the same to be done, without first obtaining a sign permit. A permit shall not be required for a change of copy of any sign, nor for the repainting, cleaning or other normal maintenance or repair of a sign or sign structure for which a permit has previously been issued in accordance with this Code, provided that the sign or sign structure is not altered in any way.

2) Permission to Install. No person shall erect, construct or maintain any sign upon any property or building without the consent of the owner or authorized representative of the owner.

3) Sign Not Regulated By the Code. An application for any sign or advertising display or structure for which no specific regulation in this Ordinance is applicable shall be considered by the Planning and Zoning Commission under the Conditional Use Permit procedure as outlined in the Planning and Zoning Ordinance, and such application shall be approved or denied in harmony with the intent of these regulations.

4) Permit Fee. An application fee shall be paid in accordance with the current fee schedule maintained by the City Clerk, as approved by the City Council. (Ord. 908 §3(5), 1993).

15.06.060 Copies on file

There shall hereafter be kept on file, in the offices of the City Clerk and the Planning and Zoning Administrator, three (3) copies of this sign code, duly certified by the Clerk, for use and examination by the public. (Ord. 908 §4, 1993).

15.06.070 Severability

The sections of this Ordinance are severable and the invalidity of a section shall not affect the validity of the remaining sections, which should be construed as closely as possible with the overall purpose and intent of this Ordinance in the event any portion hereof is deemed to be invalid. (Ord. 908 §6, 1993).

15.06.080 Violation – Penalty

Any person, firm or corporation violating any provision of this Ordinance shall be guilty of a misdemeanor, and be subject to the following penalties or remedies:

1) If a sign is placed in or projects into any public right-of-way, or has been deemed unsafe by the building department and/or city engineer it may be immediately removed by the City at the owner's, sign company's and/or responsible person's expense.

2) If in violation of some other provision of this Ordinance, the City may cause a written notice to be given requiring that the violation be corrected within (14) days and if the owner, sign company and/or responsible person for the violation fails to comply, then the violator(s) shall pay a penalty of up to $300 per day for each day of violation and/or up to 30 days in jail. The City shall have the right to remove the sign at the violator's expense in addition to the aforementioned penalties for each day of violation.

3) The City may seek injunctive relief through the courts for enforcement of the provisions of this Ordinance and in addition to the relief sought shall also be entitled to its attorney's fees and costs. (Ord. 908 §5, 1993).

CHAPTER 15.07 INTERNATIONAL FIRE CODE*

*Note to Chapter 15.07: Prior ordinance history: Ords. 654, 672, 689, 784, 828, and 873.

15.07.010 International Fire Code adopted by reference

That the document known as the International Fire Code 2003 Edition is adopted by the City of Rexburg, including all appendices as follows:

1) Section 101.2.1 References to Appendix. When this code references the Appendix, the provisions in the appendix shall not apply unless specifically adopted. The following appendices are adopted:

    a) Appendix A: Board of Appeals

    b) Appendix B: Fire Flow Requirements for Building

    c) Appendix C: Fire Hydrant Locations and Distribution

    d) Appendix D: Fire Apparatus Access Roads

    e) Appendix E: Hazard Categories

    f) Appendix F: Hazard Ranking

    g) Appendix G: Cryogenic Fluids – Weight and Volume Equivalents (Ord. 933 §2, 2004).

15.07.020 Amendments

Additionally, the Uniform Fire Code is amended and changed in the following respects:

1) Section 104.6.3 Fire Records. The fire department shall keep a record of fires and investigations occurring within its jurisdiction and of facts concerning the same, including statistics as to the extent of such fires and the damage caused thereby, together with other information as required by the code official. Investigations shall show the cause, the findings and disposition of each.

2) Section 105.1.1 Permits Required. Permits required by this code shall be obtained from the city clerk. Permit fees, if any, shall be paid prior to issuance of the permit. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the fire code official. The permit shall be obtained prior to engaging in activities, operations, practices or functions as set forth in Section 105 of the International Fire Code 2003.

3) Section 105.1.2 Types of permits. There shall be two types of permits as follows:

    a) Operational Permit. An operation permit allows the applicant to conduct an operation or business for which a permit is required by Section 105.6 for either:

i) A prescribed period

ii) Until renewed or revoked

Each operational permit fee shall be set forth in Appendix 4

b) Construction permit. A construction permit allows the applicant to install or modify systems and equipment for which a permit is required by Section 105.7. Each construction permit fee shall be set forth in Appendix 4.

4) Section 105.1.4 Starting Work Before Securing a Permit. Any person who commences any work or who causes any work to commence on fire related systems before obtaining the necessary permits shall be subject to a special investigation and shall be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code or the building code, whichever is greater. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor any penalty prescribed by law.

   a) Exception: Emergency repair work performed during off business hours. Emergency repair work shall be work similar in nature to repairing frozen or physically damaged piping in order to return a system to service.

5) Section 105.7.1 Automatic fire-extinguishing systems. A construction permit and a safety system certification permit are required for installation of or modification to an automatic fire extinguishing system. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

6) Section 105.7.3 Fire Alarm and Detection Systems and Related Equipment. A construction permit and a safety system certification permit are required for installation of or modification to fire alarm and detection systems and related equipment. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

7) Section 105.7.4 Fire Pumps and Related Equipment. A construction permit and safety system certification permit is required for installation of or modification to fire pumps and related fuel tanks, jockey pumps, controllers, and generators. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

8) Section 106.3 Concealed Work. Whenever any installation subject to inspection prior to use is covered or concealed without having first been inspected, the code official shall have the authority to require that such work be exposed for inspection. Neither the chief nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required for inspection. Approval as a result of plan reviews shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the

jurisdiction. Plan reviews presuming to give authority to violate or cancel the provisions of this code or of the other ordinances of the jurisdiction shall not be valid.

9) Section 106.4 Re-Inspection fees. A re-inspection fee may be assessed for each re-inspection when such portion of work for which inspection is called is not completed or when corrections called for are not made within the allotted time. This section is not to be interpreted as requiring re-inspection fees for the first time a premises is noted as failing to comply with the requirements of this code, but as controlling the practice of calling for inspections before the job is ready for such inspection, or ignoring the allotted time in which to correct a code deficiency. Re-inspection fees necessitated by non-compliance with requirements or conditions associated with construction work and a Building Permit, or for failing to request said required inspections, shall be in accordance with the condition, amounts, and limitations listed in the adopted and amended edition of the Building Code. Re-Inspection fees necessitated by non-compliance with requirements associated with periodic inspections of existing buildings authorized by this code shall be set forth in Appendix 4 and paid to the city prior to an occupancy permit being issued.

10) Section 112.1 Penalties for Work Completed Without a Permit. Failure to obtain a permit, prior to engaging in activities, operations, practices or function, as set forth in the International Fire Code, shall constitute a violation of the Code. The activity, operation or practice will be stopped until a permit has been obtained and a double permit fee collected.

11) Section 113 Safety System Certification Permit. All installations, modifications, required maintenance or servicing of life-safety systems are to be performed by an approved licensed business or person(s). A business or person(s) shall obtain a “Safety System Certification Permit” from the City Clerk’s office, to do any work in the City of Rexburg. Permits shall expire one year from the date of issuance unless otherwise noted on the permit.

12) Section 113.1 Safety System Certification. Each Safety System Certification fee shall be set forth in Appendix 4.

13) Section 113.3 Penalties for Violation of Permits. Any person, who violates any rules or regulations, as written on the permit application, shall be guilty of a misdemeanor and upon conviction be punishable as per Section V of this Ordinance.

14) Section 114 Tags. Tags for inspection of fire suppression systems, fire extinguishers and fire alarm systems are required to be obtained from the Rexburg City Clerk’s office for use in the City of Rexburg.

15) Section 115 Plan Review Fees. Building plan review fees, Fire Alarm Plan Review Fees, Fire Sprinkler System fees and Fire Pump fees will be set forth in Appendix 4.

16) Section 202. Chief of emergency services. The chief officer of the fire department serving the jurisdiction, or a duly authorized representative (Fire Inspector or Fire Marshal), or as appropriate, the Idaho State Fire Marshal.

17) Section 401.3.1 Making False Report. It shall be unlawful for a person to give, signal, or transmit a false alarm. The chief of emergency services shall be authorized to seek restitution from the perpetrator and/or any and all accomplices for malicious false alarms. Restitution for false alarms shall be the actual cost recovery of personnel, engines, and supplies.

18) Section 401.3.4 Silencing Fire Alarms. It is prohibited for anyone other than fire department personnel or fire protection system contractors, while in the performance of their duties, to silence, restore, or reset a fire alarm system without the expressed permission of the Fire Department.

19) Section 503.7 Barricade Specifications. If emergency vehicle access roadways are to be secured with a barricade, chain, gate, or bollard, such barricade must meet the following criteria. Removal or opening of said barricade must result in a clear unobstructed road width of twenty (20) feet. Chains and locks shall be of such quality so as to not damage fire department cutting tools nor shall cutting operations result in any unnecessary time delay. Bollards must be of an easily removable type, shall leave nothing protruding up from the roadway surface when removed, and shall be approved by the Code Official. If gates are electronically operated they shall be of a fail-open version in the event of loss of power. Roadways and access shall be maintained year around including snow removal.

20) Section 505.3 Multi-Family Dwelling Address

    a) When individual apartment, condominium, or town house structures within a common complex are designated with separate addresses, individual unit numbers shall be assigned so there is no duplication of unit designations within a building. The first floor shall be 100 series, second floor 200 series and so on for each successive floor. Basements shall be 10 series if the next higher floor is designated the first floor; or basements shall be designated 100 series if the next level is called the second floor.

    b) When apartment, condominium, or town house complexes (more than one structure) have been assigned one address, each individual building shall also be assigned a number. The building number shall be posted in a conspicuous location with the number being a minimum of twelve (12) inches in height in a contrasting color to the background. Unit or apartment numbers shall then be assigned in the 10, 100, 200, 300, etc. series per floor as identified in paragraph A of this section.

21) Section 508.5.1.1 Fire Hydrant Distance from Buildings. Fire hydrants shall not be installed closer than forty (40) feet and/or at access points to buildings. In such areas of the city where forty feet is an impractical distance, the code official may allow a lesser distance.

22) Section 510.2 FACP Location Signs. When a fire alarm control panel (FACP) is mounted in such a location or room not in obvious view, approved signs shall be posted with the intent of leading emergency personnel to the room or location of the FACP. Each room with an FACP shall have the door posted with an approved sign designating such.

23) Section 901.6 Inspection, Testing and Maintenance. Fire detection, alarm and extinguishing systems shall be maintained in an operative condition at all times, and shall be replaced or repaired where defective. Non-required fire protection systems and equipment shall be inspected, tested and maintained or removed. Systems shall be inspected and tested as follows:

    a) Automatic fire-extinguishing systems shall be inspected and tested at least annually, or as stipulated in current edition of NFPA 25.

    b) Fire alarm systems shall be inspected and tested at least annually, or as stipulated in current edition of NFAP 72.

    c) Standpipe systems shall be inspected and tested at least every five years, or as stipulated in current edition of NFPA 25.

    d) All system inspection and test reports shall be sent to the Authority Having Jurisdiction by the contractor (person) doing the maintenance or inspection. Reports of inspections and tests shall be maintained on the premises and made available to the Authority Having Jurisdiction when requested.

24) Section 901.6.2 Records. Records of all system inspections, tests, and maintenance required by the referenced standards shall be maintained on the premises for a minimum of three (3) years and made available to the fire code official upon request. An additional copy of all inspection and test reports shall be sent to the Rexburg-Madison County Emergency Services Department by the contractor (person) doing the maintenance or inspection.

25) Section 901.6.3 False Alarm Fees. The Chief of emergency services and duly authorized personnel shall be authorized to charge a fee for false alarms resulting from malfunctioning or improperly maintained fire protection systems. The fire alarm or protection system false alarm fee shall be set forth in Appendix 4 for each false alarm after three (3) times in a six month period. The fee for a false alarm arising from failure to notify the system monitoring company, Fire Department Dispatch, or the Fire Department when working on or testing a fire protection system, or when working in any capacity in a building, results in a false alarm shall be set forth in Appendix 4.

26) Section 903.1 General. Automatic sprinkler systems shall comply with this section. Fire extinguishing systems shall be installed in accordance with the International Fire Code and the current appropriate edition of the National Fire Protection Association Standards.

27) Section 903.1.2 “Spec” Warehouse Sprinkler Systems. Fire sprinkler systems installed in warehouse type buildings commonly referred to as “spec” warehouses where storage heights of combustible materials over twelve (12) feet are possible, but exact commodity and height are unknown, shall meet the following criteria.

    a) At a minimum, systems shall be for Class IV commodity, to the maximum available storage height, allowing for in-rack sprinklers, with High Temperature Sprinklers at the

ceiling. It should be noted that if the warehouse is used to store a higher commodity Class material, upgrades to the sprinkler system will be required. (See also NFPA 13 Appendix A).

b) This Section is not intended to prohibit the use of ESFR sprinkler systems.

c) It shall be the responsibility of the code official to evaluate all requests for a system layout meeting the requirements for a less hazardous storage configuration.

28) Section 903.2.7 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area. Automatic fire sprinkler systems are not required in three or four unit Group R buildings as long as the total fire area does not exceed 3,600 square feet.

29) Section 903.3.2.1 Working Space and Clearance Around Riser Piping and Devices. A working space of not less than thirty (30) inches on each side of fire suppression sprinkler riser piping and not less than thirty-six (36) inches in front of fire suppression sprinkler riser piping shall be provided. No storage of any material shall be located within the designated working space.

30) Section 903.3.5.3 Type of Piping Allowed to Connect to a Fire Sprinkler Riser System. Transitional piping between the underground water supply main and the fire sprinkler riser shall be ductile iron.

31) Section 904.11.2 System Interconnection. The actuation of the fire extinguishing system shall automatically shut down the fuel or electrical power supply to the cooking equipment. The fuel and electrical supply reset shall be manual. Electrical equipment that shuts-down upon extinguishing system activation shall include but not be limited to receptacles, outlets, lights, switches, wire, and junction boxes, etc. covered by the fire extinguishing system. The status of the exhaust fan shall be as specified by any special listing requirements of the hood, fan, and/or extinguishing system. However, in no case shall switches or connections for a fan that is to continue to run upon extinguishing system activation be allowed under the hood.

32) Section 906.1 Where Required (Portable Fire Extinguishers). Portable fire extinguishers shall be installed in the following locations.

a) In all Group A, B, E, F, H, I, M, R-1, R-2, R-4, and S occupancies.

No exceptions.

b) Within 30 feet of commercial cooking equipment.

c) In areas where flammable or combustible liquids are stored, used or dispensed.

d) On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.

e) Where required by the sections indicated in Table 906.1.

f) Special-hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

33) Section 907.1 General. This section covers the application, installation, performance and maintenance of fire alarm systems and their components in new and existing buildings and structures. The requirements of Section 907.2 are applicable to new building and structures. The requirements of Section 907.3 are applicable to existing buildings and structures. Fire Alarm systems shall be installed and maintained in accordance with the International Fire Code and the current appropriate edition of the National Fire Protection Association standards.

34) Section 907.2 Where Required-New Buildings and Structures (Fire Alarm and Detection Systems). An approved manual, automatic, or manual and automatic fire alarm system shall be provided in new buildings and structures in accordance with Sections 907.2.1 through 907.2.23. Where automatic sprinkler protection installed in accordance with Section 903.3.1.1 or 903.3.1.2 is provided and connected to the building fire alarm system, automatic heat detection required by this section shall not be required. An approved automatic fire detection system shall be installed in accordance with the provisions of this code and NFPA 72. Devices, combinations of devices, appliances and equipment shall comply with Section 907.1.2. The automatic fire detectors shall be smoke detectors, except that an approved alternative type of detector shall be installed in spaces such as boiler rooms where, during normal operation, products of combustion are present in sufficient quantity to actuate a smoke detector.

a) An approved addressable fire alarm system meeting the provisions of this Code, and NFPA 72, shall be installed when the gross square footage of a building is equal to or greater than the area as specified in Sections 903.2.1 through 903.2.10 inclusive, subject to the authority having jurisdiction or by Section 907, whichever is more restrictive. Exception: Buildings with eight or less initiating devices may be zoned systems provided only one device is used per zone. Each device shall have a plain English LCD (Liquid Crystal Display).

35) Section 907.9.3 Zone and Address Location Labeling. Fire alarm control panels (FACP) shall have all zones and address points plainly and permanently labeled as to their location, on the outside of the panel or on an easily readable map of the building affixed to the outside of the panel.

36) Section 3404.2.13.1.3 Out of Service for One Year. Underground tanks that have been our of service for a period of 1 year shall be removed from the ground in accordance with Section 3404.2.14 or abandoned in place in accordance with Section 3404.2.13.1.4. Upon approval of the Authority Having Jurisdiction, underground tanks that comply with the performance standards for new or upgraded underground tanks set forth in 40 CFR 280.20 or 40 CFR 280.21 EPA Final Rule may remain out of service indefinitely so long as they remain in

compliance with the operation, maintenance and release detection requirements of the final rule.

37) Section D103.6.2.3 Fire Access Signage. All occupancies classified as R-1, R-2, R-4 shall have fire access roadways posted with the proper signs as in Section D103.6 at seventy-five (75) foot intervals from the center in addition to having the curbs painted red and maintained. (Ord. 933 §3, 2004).

15.07.030 Copies on file

There has been on file and there shall hereafter be kept on file, in the office of the City Clerk three (3) copies of said International Fire Code, 2003 edition, duly certified by the clerk, for use and examination by the public. (Ord. 933 §4, 2004).

15.07.040 Severability

The sections of this chapter are severable and the invalidity of a section shall not affect the validity of the remaining sections. (Ord. 933 §6, 2004).

15.07.050 Violation – Penalty

Any person, firm or corporation violating any provision of the International Fire Code or its appendices shall, upon conviction thereof, be punishable by a fine not to exceed Five Hundred Dollars ($500.00) or by imprisonment for not more than six (6) months or by both such fine and imprisonment for any single violation. (Ord. 933 §5, 2004).

CHAPTER 15.08 FIRE DEPARTMENT LOCK BOX

15.08.010 Purpose

1) The Mayor and City Council have determined that the health, safety, and welfare of the citizens of the City of Rexburg are promoted by requiring certain structures to have a key lock box installed on the exterior of the structure to aid the Rexburg-Madison County Emergency Services in gaining access to the structure when responding to calls for emergency service.

2) The automatic systems may cause the fire department to be summoned at a time when the building or business is not occupied or when the occupant is not able to provide entry for the fire department.

3) The key lock box system will eliminate forced entries into structures thereby avoiding costly and time-consuming efforts in gaining access to locked structures during an emergency. (Ord. 918(part), 2004).

15.08.020 Key lock box system

1) The following structures shall be equipped with a key lock box at or near the main entrance or such other location required by the chief of emergency services.

a) commercial or industrial structures protected by an automatic alarm system or automatic suppression system, or such structures that are secured in a manner that restricts access during an emergency;

b) multi-family residential structures that have restricted access though locked doors and have a common corridor for access to the living units;

c) governmental structures and nursing care facilities.

2) The key lock box shall be located:

a) at or near the recognized public entrance, adjacent to the fire annunciator panel, on the exterior of the structure, or above the Fire Department Connection, when occupancy is serviced by fire sprinkler system and/or fire alarm system approved by the Rexburg-Madison County Emergency Services Department;

b) the lock box shall be located at a height of not less than five(5) feet and not more than ten (10) feet above final grade;

c) no steps, displays, signs or other fixtures, or structure protrusions shall be located under the box which would allow intruders to access the box without assistance.

3) All newly constructed structures subject to this section shall have the key lock box installed and operational prior to the issuance of an occupancy permit. All structures in existence on the effective date of this section and subject to this section shall have one year from the effective date of this section to have a key lock box installed and operational.

4) The fire chief shall designate the type of key lock box system to be implemented within the city and shall have the authority to require all structures to use the designated system.

5) The owner or operator of a structure required to have a key lock box shall, at all times, keep a key in the lock box that will allow for access to the structure.

6) The fire chief shall be authorized to implement rules and regulations for the use of the lock box system.

7) Any person who owns or operates a structure subject to this section shall be subject to the penalties set forth in Ordinance 873 Section V for any violation of this section. (Ord. 918 §1, 2004).

CHAPTER 15.09 FLOOD DAMAGE PREVENTION

15.09.010 Statutory authorization

The Legislature of the state of Idaho has, in statutes, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and

general welfare of its citizenry. Therefore, the city council of the city of Rexburg, Idaho, does ordain as set out in this chapter. (Ord. 717 §1.1, 1991).

15.09.020 Findings of fact

1) The flood hazard areas of the city of Rexburg are subject to periodic inundation which results in loss of life and property, health, and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

2) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated, or otherwise protected from flood damage also contribute to the flood loss. (Ord. 717 §1.2, 1991).

15.09.030 Statement of purpose

It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

1) Protect human life and health;

2) Minimize expenditure of public money and costly flood control projects;

3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4) Minimize prolonged business interruptions;

5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets, and bridges located in areas of special flood hazard;

6) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

7) Ensure that potential buyers are notified that property is in an area of special flood hazard; and

8) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions. (Ord. 717 §1.3, 1991).

15.09.040 Methods of reducing flood losses

In order to accomplish its purposes, this chapter includes methods and provisions for:

1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;

2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;

4) Controlling filling, grading, dredging, and other development which may increase flood damage; and

5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or may increase flood hazards in other areas. (Ord. 717 §1.4, 1991).

15.09.050 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

1) Appeal: means a request for review of the city building inspector's interpretation of any provision of this chapter or a request for a variance.

2) Area of shallow flooding: means a designated AO or AH Zone on the Flood Insurance Rate Map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident. AO is characterized as sheet flow and AH indicates ponding.

3) Area of special flood hazard: means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letters A or V.

4) Base flood: means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the "100-year flood." Designation on maps always include the letters A or V.

5) Development: means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

6) Flood or flooding: means a general and temporary condition of partial or complete inundation of normally dry land areas from:

    a) The overflow of inland or tidal waters, and/or

b) The unusual and rapid accumulation of runoff or surface waters from any source.

7) Flood insurance rate map (FIRM): means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

8) Flood insurance study: means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

9) Floodway: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

10) Lowest floor: means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter found at subsection B of Section 15.09.190.

11) Manufactured home: means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than one hundred eighty consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

12) Manufactured home park or subdivision: means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

13) New construction: means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

14) Start of construction: includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundation or the erection of temporary forms; nor does it include the installation on the property of accessory erection of temporary

forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

15) Structure: means a walled and roofed building including a gas or liquid storage tank that is principally above ground.

16) Substantial improvement: means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

    a) Before the improvement or repair is started, or

    b) If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

    c) The term does not, however, include either:

        i) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure saving living conditions, or

        ii) Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

17) Variance: means a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 717 §2.0, 1991).

15.09.060 Lands to which this chapter applies

This ordinance shall apply to all areas of special flood hazards within the jurisdiction of the city of Rexburg. (Ord. 717 §3.1, 1991).

15.09.070 Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the Federal Insurance Administration in a scientific and engineering report entitled "The Flood Insurance Study for Madison County and Its Incorporated Cities," dated January 17, 1990, with accompanying Flood Insurance Maps is adopted by reference and declared to be a part of this chapter. The Flood Insurance Study is on file at the city clerk's office, City Building, 12 North Center, Rexburg, Idaho. (Ord. 717 §3.2, 1991).

15.09.080 Penalties for noncompliance

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violation

of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than three hundred dollars or imprisoned for not more than one hundred eighty days, or both, for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city of Rexburg from taking such other lawful action as is necessary to prevent or remedy any violations. (Ord. 717 §3.3, 1991).

15.09.090 Abrogation and greater restrictions

This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail. (Ord. 717 §3.4, 1991).

15.09.100 Interpretation

In the interpretation and application of this chapter, all provisions shall be:

1) Considered as minimum requirements;

2) Liberally construed in favor of the governing body; and,

3) Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 717 §3.5, 1991).

15.09.110 Warning and disclaimer of liability

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city of Rexburg, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder. (Ord. 717 §3.6, 1991).

15.09.120 Development permit required

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 15.09.070. The permit shall be for all structures, including manufactured homes, as set forth in the definitions and for all development including fill and other activities, also as set forth in the definitions. (Ord. 717 §4.1-1, 1991).

15.09.130 Application for development permit

Application for a development permit shall be made on forms furnished by the city clerk and/or city building inspector and may include but not be limited to plans in duplicate drawn to scale

showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required.

1) Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;

2) Elevation in relation to mean sea level to which any structure has been floodproofed;

   Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection B of Section 15.09.190; and
3) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development. (Ord. 717 §4.1-2, 1991).

15.09.140 Designation of the city building inspector as administrator

The city building inspector is appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions. (Ord. 717 §4.2, 1991).

15.09.150 Duties and responsibilities of the city building inspector

Duties of the city building inspector shall include, but not be limited to:
1) Permit Review.

   a) Review all development permits to determine that the permit requirements of this chapter have been satisfied;

   b) Review all development permits to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required;

   c) Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of subsection A of Section 15.09.200 are met.

2) Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 15.09.070, "Basis For Establishing the Areas of Special Flood Hazard," the city building inspector shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer Sections 15.09.190 and 15.09.200.

3) Information to be Obtained and Maintained.

   a) Where base flood elevation data is provided through the Flood Insurance Study or required as in subsection B of this section, obtain and record the actual elevation (in

relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

b) For all new or substantially improved floodproofed structures:

i) Verify and record the actual elevation (in relation to mean sea level), and

ii) Maintain the floodproof certifications required in subsection C of Section 15.09.180;

c) Maintain for public inspection all records pertaining to the provisions of this chapter.

4) Alteration of Watercourses.

a) Notify adjacent communities and the Idaho Department of Water Resources, 1301 North Orchard, Boise, Idaho 83720, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;

b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

5) Interpretation of FIRM Boundaries. Make interpretations where needed, as to exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 15.09.160. (Ord. 717 §4.3, 1991).

15.09.160 Variance procedures – Appeals board

1) The city council as established by the city of Rexburg shall hear and decide appeals and requests for variances from the requirements of this chapter.

2) The council shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the city building inspector in the enforcement or administration of this chapter.

3) Those aggrieved by the decision of the city council, or any taxpayer, may appeal such decision to the district court, as provided in the Idaho Administrative Procedures Act.

4) In passing upon such applications, the city council shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter, and:

a) The danger that materials may be swept onto other lands to the injury of others;

b) The danger to life and property due to flooding or erosion damage;

c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

d) The importance of the services provided by the proposed facility to the community;

e) The necessity to the facility of a waterfront location, where applicable;

f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;

g) The compatibility of the proposed use with existing and anticipated development;

h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

5) Upon consideration of the factors of subsection D of this section and the purposes of this chapter, the city council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this chapter.
6) The city building inspector shall maintain the records of all appeal actions and report any variances to the Federal Insurance Administration upon request. (Ord. 717 §4.4-1, 1991).

15.09.170 Conditions for variances

1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing subdivisions 1 through 11 of subsection D of Section 15.09.160 have been fully considered. As the lot size increases the technical justification required for issuing the variance increases.

2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in this section.

3) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

5) Variances shall only be issued upon:

   a) Showing of good and sufficient cause;

   b) A determination that failure to grant the variance would result in exceptional hardship to the applicant;

   c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in Section 15.09.160, or conflict with existing local laws or ordinances.

6) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from the flood elevations should be quite rare.

7) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry-floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection A of Section 15.09.170 and otherwise complies with subsections A and B of Section 15.09.180.

8) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. (Ord. 717 §4.4-2, 1991).

15.09.180 Provisions for flood hazard reduction – General standards

In all areas of special flood hazards, the following standards are required:

1) Anchoring.

   a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure;

   b) All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques).

2) Construction Materials and Methods.

a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage;

c) Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3) Utilities.

a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;

b) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and

c) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4) Subdivision Proposals.

a) All subdivision proposals shall be consistent with the need to minimize flood damage;

b) All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;

c) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,

d) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty lots or five acres (whichever is less).

5) Review of Building Permits. Where elevation data is not available either through the Flood Insurance Study or from another authoritative source (subsection B of Section 15.09.200), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates. (Ord. 717 §5.1-5, 1991).

15.09.190 Specific standards

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.09.070 or subsection B of Section 15.09.150, the following provisions are required:

1) Residential Construction.

    a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to or above base flood elevation;

    b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

        i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided,

        ii) The bottom of all openings shall be no higher than one foot above grade,

        iii) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2) Nonresidential Construction. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

    a) Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

    b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

    c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in subdivision 2 of subsection C of Section 15.09.150;

    d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subdivision 2 of subsection A of this section;

e) Applicants floodproofing buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g. a building constructed to the base flood level will be rated as one foot below that level).

3) Manufactured Homes. All manufactured homes to be placed or substantially improved with Zones A1-30, AH, and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of subdivision 2 of subsection A of Section 15.09.180. (Ord. 717 §5.2-3, 1991).

15.09.200 Floodways

Located within areas of special flood hazard established in Section 15.09.070 are area designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

1) Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer or architect is provided demonstrating that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

2) If subsection A of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 15.09.180 and 15.09.190. (Ord. 717 §5.3, 1991).

TITLE 16 ZONING

Title 16 together with the City of Rexburg Development Code sets forth the residential, commercial and other zoning regulations. They also describe impact area, parking, land use, and enforcement policies relating to the City's zoning regulations.

For statutory provisions authorizing cities to pass zoning ordinances, create zoning commissions and enforce compliance with zoning laws, see Idaho Code Ch. 50-12.

CHAPTER 16.01 DEVELOPMENT CODE

16.01.010 Adoption

Enacting a development code for the city of Rexburg, dividing the city into districts in accordance with the revised comprehensive plan; regulating and restricting the height, number of stories, size of buildings and other structures and objects, the percentage of lot that may be occupied by structures, the size of yards and other open spaces, the density of population, location and use of buildings, structures and land for trade, commerce, industry, residence and other purposes. (Ord. 926(part), 2005).

For the City of Rexburg Development Code Ord. No. 926 go to www.rexburg.org or contact City Hall.

CHAPTER 16.02 DEVELOPMENT IMPACT FEE

16.02.010 Title and purpose

The provisions of this ordinance shall be known as the "City of Rexburg Development Impact Fee Ordinance." The purpose of these regulations is to prescribe the procedure whereby developers of land shall pay an impact fee as set forth in this Ordinance for the purpose of providing the public facilities and system improvements needed to serve future residents and users of such development. (Ord. 896 §1(part), 2003).

16.02.020 Definitions

1) **Building permit:** The permit required for new construction and additions.

2) **Capital improvements:** Improvements with a useful life of twenty (20) years or more, by new construction or other action, which increase the service capacity of a public facility, or service improvement.

3) **Capital improvements plan:** A plan adopted and amended pursuant to the provision of the Development Impact Fee Act, Idaho Code 67-8208 that identifies capital improvements for which development impact fees may be used as a funding source. The capital improvements plan is included as a part of the Development Impact Fee Report.

4) **City:** The City of Rexburg, a municipal corporation duly organized pursuant to the laws of the state of Idaho.

5) **Development:** Any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit, or manufactured/mobile home permit, which creates additional demand and need for public facilities.

6) **Development approval:** Any written duly authorized document from the City that authorizes the commencement of a development.

7) **Development impact fee:** A payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this Ordinance. The term does not include the following:

   a) A charge or fee to pay the administrative, plan review or inspection cost associated with permits required for development;

   b) Connection or hookup charges;

   c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or

   d) Amounts collected from a developer in a transaction in which the City has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to Section 67-8209(3), Idaho Code, for credit or reimbursement.

8) **Development requirement:** A requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

9) **Extraordinary costs:** Those costs incurred as a result of an extraordinary impact.

10) **Extraordinary impact:** An impact which is reasonably determined by the City to:

   a. Result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by Section 67-8214(2), Idaho Code;

   b. Result in the need for system improvements which are not identified in the Capital Improvements Plan;

c. Have an impact which results in a lower than acceptable level of service.

11) **Fee payer:** That person who pays or is required to pay a development impact fee.

12) **Gross floor area:** The sum of the areas of the several floors of the building or structure, including areas used for human occupancy or required for the conduct of the business or use, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics when not used for human occupancy, nor any floor space in an accessory building, carport, or the main building intended or designed for the parking of motor vehicles in order to meet any City parking requirement nor nonresidential facilities; arcades, porticoes, and similar open areas which are located at or near street level, which are accessible to the general public, and which are not designed or used as sales, display, storage, service, or production areas.

13) **Impact fee:** See Development Impact Fee.

14) **Land use assumptions:** A description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

15) **Level of service:** A measure of the relationship between service capacity and service demand for public facilities.

16) **Manufactured home:** A structure, constructed according to HUD/FHA manufactured home construction and safety standards, transportable in one (1) or more sections, which:

    a) In the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or

    b) When erected on site, is three hundred twenty (320) or more square feet; and

    c) Is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities; and

    d) Includes the plumbing, heating, air conditioning, and electrical systems contained therein;

    e) Except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401, et seq.

17) **Mobile home:** A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code).

18) **Modular building:** Any building or building component, other than a manufactured / mobile home, which is constructed according to standards contained in the Uniform Building Code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

19) **Present value:** The total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction, or money.

20) **Project:** A particular development on an identified parcel of land.

21) **Project improvements:** In contrast to system improvements, project improvements are site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and the convenience of the occupants or users of the project. [Ordinance No. ---: Page 5] [Development Impact Fee Ordinance]

22) **Proportionate share:** That portion of the cost of system improvements determined pursuant to Section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

23) **Public facilities:** Means those types of improvements described in Idaho Code 50-1703, including but not limited to the following:

    a. Parks, open space and recreation areas, and related capital improvements; and

    b. Public safety facilities, including law enforcement, fire, emergency medical and rescue.

24) **Recreational vehicle:** A vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

25) **Service unit:** A standardized measure of consumption, use, generation, or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular public facility category (i.e. parks, law enforcement, fire, etc.) of capital improvements.

26) **System improvements:** In contrast to project improvements, mean capital improvements to public facilities which are designed to provide service to a service area including and without limitation, the type of improvements described in Section 50-1703, Idaho Code.

27) **System improvements costs:** Costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in Section 50-1702 (h), Idaho Code, to provide additional public facilities needed to service new growth and development. For clarification, system improvement costs do not include:

a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;

b) Repair, operation or maintenance of existing or new capital improvements;

c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

d) Administrative and operating costs of the City unless such costs are attributable to development of the capital improvements plan, as provided in Section 67-8208, Idaho Code; or

e) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the City to finance capital improvements identified in the capital improvements plan.

28) **Unit(s) of development:** A quantifiable increment of development activity measured in terms of dwelling units, or other appropriate measurements contained in the impact fee schedule incorporated in the "Report." (Ord. 896 §1(part), 2003).

16.02.030 Exemptions

The provisions of this Ordinance shall apply uniformly to all those who benefit from new growth and development except as provided below.

1) The provisions of this Ordinance shall not apply to the following:

a) Rebuilding the same amount of floor space of a structure that was destroyed by fire or other catastrophe, providing the structure is rebuilt and ready for occupancy within two (2) years of its destruction;

b) Remodeling or repairing a structure that does not increase the number of service units;

c) Replacing a residential unit, including a modular building or manufactured / mobile home, with another residential unit on the same lot, provided that the number of service units does not increase;

d) Placing a temporary construction trailer or office on a lot;

e) Constructing an addition on a residential structure that does not increase the number of service units;

f) Adding uses that are typically accessory to residential uses, such as tennis courts or clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of system improvements;

g) Upon demonstration by fee payer by documentation such as utility bills and tax records, to the installation of a modular building, manufactured / mobile home or recreational vehicle on that same lot or space for which a development impact fee has been paid previously, and as long as there is no increase in service units.

2) An exemption must be claimed by the fee payer upon application for a building permit. Any exemption not so claimed shall be deemed waived by the fee payer. Applications for exemption shall be submitted to and determined by the City Clerk, or his or her duly designated agent, within ninety (90) days. Appeals of the City Clerk's, or his or her duly designated agent, determination shall be made under the provisions of Section 10 of this Ordinance entitled "Appeals." (Ord. 896 §2, 2003).

16.02.040 Collection of impact fees

1) The development impact fee shall be paid and collected at the time of issuance of a building permit or a manufactured/mobile home installation permit.

2) No building permit or other equivalent City approval shall be issued for development as herein defined unless the impact fee is paid pursuant to this Ordinance.

3) A manufactured / mobile home unit may not locate on a manufactured / mobile home site unless the impact fee is paid pursuant to this Ordinance or has been paid on a previous manufactured / mobile home unit on the same site.

4) In the event payment is dishonored, the City shall have all lawful remedies including but not necessarily limited to the withholding of utility services, the imposition of reasonable interest and penalties, the imposition of liens pursuant to Chapter 5, Title 45, Idaho Code, the withholding of other City approvals required for the development of other properties owned by the fee payer, and the issuance of "stop work" orders, and the revocation or suspension of the building permit. (Ord. 896 §4, 2003).

16.20.050 Calculation of impact fees

1) The City shall calculate the amount of the impact fee due for each building permit and manufactured / mobile home installation permit by the procedure set forth in the "Report".

2) The calculation of a development impact fee shall be in accordance with generally accepted accounting principles. A development impact fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or developers within the service area other than the person paying the fee.

3) A development impact fee shall be calculated on the basis of the Performance Standard for public facilities adopted in this Ordinance and in the "Report" that are applicable to existing development as well as new growth and development. The construction, improvement, expansion or enlargement of new or existing public facilities for which a development impact fee is imposed must be attributable to the capacity demands generated by the new development.

4) If the development for which a building permit is sought contains a mix of uses, the impact fee will be calculated for each type of use.

5) Certification: Prior to making an application for a building permit or manufactured / mobile home installation permit, a prospective applicant may request in writing a written certification of the development impact fee schedule or individual assessment for a particular project which shall establish the development fee for a period of one (1) year from the date of certification. The certification shall include an explanation of facilities considered under Section 67-8207, Idaho Code. The certification shall specify the system improvement(s) for which the impact fee is intended to be used.

6) Individual Assessment: Individual assessment of impact fees is permitted in situations where the fee payer can demonstrate by clear and convincing evidence that the established impact fee is inappropriate.

   a) Individual assessments of development impact fees may be made by application to the City Clerk, or his or her duly designated agent, prior to receiving building permits manufactured / mobile home installation permits, or other necessary approvals from the City. The City Clerk, or his or her duly designated agent, shall evaluate such individual assessments under the guidelines provided for in section 05.010.F.4. If the guidelines are met, the individual assessment shall be approved by the City Clerk, or his or her duly designated agent. Any decision regarding a request for an individual assessment shall be provided in writing to the applicant and a copy of said decision, along with supporting documentation, shall be provided to the City Council within thirty (30) days of the decision.

   b) Late applications for individual assessments may be submitted within thirty (30) days after the receipt of a building permit only if the fee payer makes a showing that the facts supporting such application were not known or discoverable prior to receipt of a building permit and that undue hardship would result if said application is not considered.

   c) The City Clerk, or his or her duly designated agent, shall render a written decision regarding the individual assessment and forward it to the City Council within thirty (30) days of the date a complete application is submitted. The decision of the City Clerk, or his or her duly designated agent, shall establish the impact fee for the project in question for a period of one (1) year from the date said decision becomes final.

   d) The City Clerk, or his or her duly designated agent, shall evaluate an application for individual assessment and may approve the same if fee payer has shown by clear and convincing evidence that the established impact fee is inappropriate and that the following facts and conditions exist.

      i) Exceptional or extraordinary circumstances or conditions apply to the development that does not apply generally to other properties in the vicinity of the development.

ii) An individual assessment is necessary for the reasonable and acceptable development of the property.

iii) The approval of the individual assessment will not be materially detrimental to the public welfare or injurious to property in the vicinity in which the development is located.

iv) The approval of the individual assessment will not adversely affect the capital improvement plan for the City.

e) Appeals to the City Clerk, or his or her duly designated agent, determination of individual assessment shall be made to the City Council by the filing of an appeal with the City Clerk within thirty (30) days of the date of mailing, faxing, or personal delivery of written notice of the decision of the City Clerk, or his or her duly designated agent. Final determination regarding the appeal of individual assessments shall be made by the City Council. (Ord. 896 §5, 2003).

16.02.060 General methodology for calculation

1) The amount of the impact fee shall be calculated using the methodology contained in the "Report."

2) A development impact fee shall not exceed a proportionate share of the cost of system improvements determined in accordance with Section 67-8207, Idaho Code. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.

3) A developer shall have the right to elect to pay a project's proportionate share of system improvement costs by payment of development impact fees according to the fee schedule as full and complete payment of the development project's proportionate share of system improvement costs, except as provided in Section 67-8214(3), Idaho Code. The schedule of development impact fees for various land users per unit of development shall be as set forth in the "Report."

4) Proportionate Share Determination:

a) All development impact fees shall be based on a reasonable and fair formula or method under which the development impact fee imposed does not exceed a proportionate share of the costs incurred or to be incurred by the City in the provision of system improvements to serve the new development. The proportionate share is the cost attributable to the new development after the City considers the following:

i) Any appropriate credit, offset, or contribution of money, dedication of land, or construction of system improvements;

ii) Payments reasonably anticipated to be made by or as a result of a new development in the form of user fees, debt service payments, or taxes which are dedicated for system improvements for which development impact fees would otherwise be imposed; and

iii) All other available sources of funding such system improvements.

b) In determining the proportionate share of the cost of system improvements to be paid by the developer, the following factors shall be considered by the City:

i) The cost of existing system improvements within the service area or areas;

ii) The means by which existing system improvements have been financed;

iii) The extent to which the new development will contribute to the cost of system improvements through taxation, assessments, or developer or landowner contributions, or has previously contributed to the cost of system improvements through developer or landowner contributions.

iv) The extent to which the new development is required to contribute to the cost of existing system improvements in the future.

v) The extent to which the new development should be credited for providing system improvements, without charge to other properties within the service area or areas;

vi) Extraordinary costs, if any, incurred in serving the new development;

vii) The time and price differential inherent in a fair comparison of fees paid at different times; and

viii) The availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The City shall develop a plan for alternative sources of revenue, which shall include but not necessarily be limited to plans generated during the City's annual budget process, lobbying efforts, tax increment financing, implementation of user fees and various forms of utilities. (Ord. 896 §7, 2003).

16.02.070 Credits and reimbursements

1) In the calculation of development impact fees for a particular project, credit or reimbursement shall be given for the present value of any construction of system improvements or contribution or dedication of land or money required by the City from a developer for system improvements of the public facility category (i.e. parks, law enforcement, fire, etc.) for which the development impact fee is being collected. Credit or reimbursement shall not be given for project improvements.

2) If a developer is required to construct, fund or contribute system improvements in excess of the development project's proportionate share of system improvement costs, the developer

shall receive a credit on future impact fees or be reimbursed at the developer's choice for such excess construction, funding or contribution from development impact fees paid by future development which impacts the system improvements constructed, funded or contributed by the developer(s) or fee payer. If a credit for the payment of future impact fees is requested, the credit shall be given **only** for the public facility category that received system improvements in excess of the development's proportionate share.

3) If credit or reimbursement is due to the developer pursuant to this section, the City shall enter into a written agreement, with the fee payer, negotiated in good faith, prior to the construction, funding, or contribution. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement.

4) No credits shall be given for the construction of local on-site facilities, structures, improvements, or other project improvements required by zoning, subdivision, or other city regulations unless the improvement is identified in the "Report" as a system improvement.

5) Any person requesting such credit or reimbursement shall submit their request in writing on a form provided by the City and present documentation of costs or payments for facilities to the City Clerk or his or her duly designated agent prior to issuance of a building permit or manufactured / mobile home installation permit. The determination shall be made no more than forty-five (45) days after complete documentation is submitted to the City Clerk or his or her duly designated agent. Any appeal from such a determination by the City Clerk, or his or her duly designated agent, shall be pursuant to Section 10 of this Ordinance. (Ord. 896 §8, 2003).

16.02.080 Administration of impact fees

1) Transfer of funds to City Finance Officer: Upon receipt of impact fees, the City Finance Officer, or his or her duly designated agent, shall be responsible for placement of such funds into separate accounts as hereinafter specified. All such funds shall be deposited in interest-bearing accounts, within the Capital Projects Fund, in a bank authorized to receive deposits of city funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.

2) Establishment and maintenance of accounts: The City Finance Officer, or his or her duly designated agent, shall establish separate accounts and maintain records for each such account whereby impact fees collected can be segregated.

3) Maintenance of records: The City Finance Officer, or his or her duly designated agent, shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; that shall account for all monies received; that shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the provision of projects specified in the capital improvements program; and that shall provide an annual accounting for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

4) Development impact fees shall only be spent for the public facility category (i.e. parks, law enforcement, fire, etc.) of system improvements for which the fees are collected and either within or for the benefit of the service area in which the project is located.

5) Review and modification: Unless the City Council deems some other time period is appropriate, the City shall at least once every five (5) years commencing from the date of the original adoption of the capital improvement plan, review the development potential of the area and update the capital improvements plan in accordance with the procedures set forth in Idaho Code Section 67-8206. The City may make any updates as are deemed necessary as a result of (1) development occurring in the prior year; (2) capital improvements actually constructed; (3) changing facility needs; (4) inflation; (5) revised cost estimates for capital improvements; (6) changes in the availability of other funding projects; and (7) such other factors as may be relevant.

6) The City shall annually adopt a capital budget.

7) As part of its annual audit process, the City shall prepare an annual Report describing the amount of all development impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area.

8) All other requirements of Idaho Code 67-8210, regarding earmarking and expenditure of collected development impact fees, shall apply. (Ord. 896 §7, 2003).

16.02.090 Refunds

1) The current owner or contract purchaser of property on which an impact fee has been paid may request a refund of such fee if:

   a) Service is available but never provided;

   b) The project for which a building permit has been used has been lawfully altered resulting in a decrease in the amount of the impact fee due; or

   c) The City, after collecting the fee when service is not available, has failed to appropriate and expend the collected development impact fees pursuant to Section 67-8210(4) Idaho Code.

   d) A building permit or permit for installation of a manufactured / mobile home is denied or abandoned.

2) The request for refund must be filed in writing and submitted to the City Clerk or his or her duly designated agent on a form provided by the City for such purpose. The Owner shall provide such documentation as the City Clerk, or his or her duly designated agent, may require proving such satisfaction, reconveyance, or releases from contract sellers, mortgagees, lien holders, and / or others having an interest in the real property for which an impact fee has been paid.

3) A request for refund must be filed within the time allowed by law.

4) Within ninety (90) days of the date of receipt of a request for refund, the City Clerk or his or her duly designated agent must provide the owner, in writing, with a decision on the refund request including the reasons for the decision. If a right to refund exists, the City is required to send a refund to the owner of record within ninety (90) days after it is determined that a refund is due. A refund shall include a refund of interest at one-half (½) the legal rate provided for in Section 28-22-104, Idaho Code.

5) Owner may appeal the determination of the City Clerk, or his or her duly designated agent, to the City Council pursuant to the provisions in Section 10 of this Ordinance. (Ord. 896 §9, 2003).

16.20.100 Appeals

1) A developer or fee payer may appeal the written determination of the applicability and amount of the development impact fee, or refund, or any discretionary action or inaction by or on behalf of the City to the City Council.

2) The developer or fee payer must file a notice of appeal to the City Council with the City Clerk within thirty (30) days following the written determination, discretionary action, or inaction. When filing an appeal, the fee payer shall submit a letter providing a full explanation of the request, the reason for appeal, as well as all supporting documentation.

3) The filing of an appeal shall not stay required payment of the impact fee, however, a fee payer can pay a development impact fee under protest in order to obtain development approval or building permit.

4) Upon voluntary agreement by the fee payer and the City, any disagreement related to the impact fee for the proposed development may be mediated by a qualified independent party.

    a) Mediation may take place at any time during the appeals process and participation in mediation does not preclude the fee payer from pursuing other remedies provided for in this Ordinance.

    b) The fee payer and the City shall share mediation costs equally. (Ord. 896 §10, 2003).

16.02.110 Extraordinary impacts

In determining the proportionate share of the cost of system improvements to be paid by the developer, the City Clerk or his or her duly designated agent shall consider whether any extraordinary costs will be incurred in serving the development based upon an extraordinary impact as defined in Section 1 of this ordinance. This determination shall be made prior to issuance of any permit for development and shall be paid prior to any such issuance except as may be provided pursuant to a private agreement between the parties as authorized by Idaho Code Section 67-8214.

If the City Clerk or his or her duly designated agent determines that the development will result in an extraordinary impact, it shall advise the fee payer in writing what the extraordinary impact is, the reason for the extraordinary impact, and the estimated costs to be incurred as a result of the extraordinary impact.

Nothing in this Ordinance shall obligate the City to approve any development that results in extraordinary impact.

The fee payer may appeal the determination of an extraordinary impact or the amount of extraordinary costs incurred in writing by filing a notice of appeal to the City Council with the City Clerk pursuant to the terms set forth in Section 10, entitled "Appeals." When filing an appeal, the fee payer shall submit a letter providing the reason for the appeal along with supporting documentation. The City Council shall consider the appeal and make a final determination within ninety (90) days of receipt of the written appeal. (Ord. 896 §11, 2003).

16.02.120 Bonding

Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for such projects may include impact fees and other city revenues as may be allocated by the City Council. (Ord. 896 §13, 2003).

16.02.130 Capital improvement projects

The capital improvement projects to be financed by the impact fee are those as listed in the "Report," incorporated herein by reference along with all footnotes, exhibits, appendices, and other attachments referenced. (Ord. 896 §4, 2003).

16.02.140 Effect of impact fee on zoning and subdivision regulations

This Ordinance shall not affect, in any manner, the permissible use of property, density of development, design and improvement standards and requirements, or any other aspect of the development of land or provision of capital improvements subject to the zoning and subdivision regulations or other regulations of the City, which shall be operative and remain in full force and effect without limitation with respect to all such development. (Ord. 896 §14, 2003).

16.02.150 Development Impact Fee Report reference

"Development Impact Fee Report" dated July 30, 2003, along with all footnotes, exhibits, appendices, and other attachments referenced therein, all of which are by this reference incorporated herein as if set forth fully. A description of acceptable levels of service for system improvements is described in the "Report." (Ord. 896 §12, 2003).

16.02.160 Other powers and rights not affected

1) Nothing in this Ordinance shall prevent the City from requiring a developer to construct reasonable project improvements in conjunction with a development project.

2) Nothing in this Ordinance shall be construed to prevent or prohibit private agreements between property owners and developers, the Idaho Transportation Department, the City, and

other governmental entities in regard to the construction or installation of system improvements or providing for credits or reimbursements for system improvement costs incurred by a developer including inter-project transfers of credits or providing for reimbursement for project improvements which are used or shared by more than one (1) development project. If it can be shown that a proposed development has a direct impact on a public facility under the jurisdiction of the Idaho Transportation Department, then the agreement shall include a provision for the allocation of impact fees collected from the developer for the improvement of the public facility by the Idaho Transportation Department.

3) Nothing in this Ordinance shall obligate the City to approve development that results in an extraordinary impact. Extraordinary impacts shall be determined and processed pursuant to Section 11 of this Ordinance.

4) Nothing in this Ordinance shall obligate the City to approve a development request that may reasonably be expected to reduce levels of service below minimum acceptable levels established in the development impact fee ordinance. To this end, the City may impose a development impact fee for system improvement costs incurred subsequent to adoption of the ordinance to the extent that new growth and development will be served by the system improvements.

5) Nothing in this Ordinance shall be construed to create any additional right to develop real property or diminish the power of the City in regulating the orderly development of real property.

6) Nothing in this Ordinance shall work to limit the use by the City of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.

7) Nothing herein shall restrict or diminish the power of the City to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of project or system improvement costs required as a result of such voluntary annexation. (Ord. 896 §15, 2003).

CHAPTER 16.03 COMPREHENSIVE PLAN

16.03.010 Adoption

There is hereby adopted as the official Comprehensive Plan of the City of Rexburg, Idaho, that certain plan titled as City of Rexburg Comprehensive Plan 2010 of which Plan not fewer than three (3) copies have been and are now filed in the office of the City Clerk, and the same is adopted and incorporated as fully as if set forth at length herein. (Ord. 808, §1, 1998).

CHAPTER 16.04 WIRELESS TELECOMMUNICATIONS TOWERS AND ANTENNAS

16.04.010 Definitions

As used in this ordinance, the following terms shall have the meanings set forth below:

1) "Alternative tower structure" means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

2) "Antenna" means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

3) "Backhaul network" means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

4) "FAA" means the Federal Aviation Administration.

5) "FCC" means the Federal Communications Commission.

6) "Height" means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.(g) "Preexisting towers and preexisting antennas" means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

7) "Tower" means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto. (Ord. 915 §2, 2004).

16.04.020 Applicability

1) New Towers and Antennas. All new towers or antennas in City of Rexburg shall be subject to these regulations, except as provided in Sections 3(b) through (d), inclusive.

2) Amateur Radio Station Operators/Receive Only Antennas. This ordinance shall not govern any tower, or the installation of any antenna, that is under seventy (70) feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

3) Preexisting Towers or Antennas. Preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of Sections 4(f) and 4(g). (Ord. 915 §3, 2004).

16.04.030 General requirements

1) Principal or Accessory Use. Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

2) Lot Size. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

3) Inventory of Existing Sites. Each applicant for an antenna and/or tower shall provide to the Planning and Zoning Department an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of City of Rexburg or within one mile of the border thereof, including specific information about the location, height, and design of each tower. The Planning and Zoning Department may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of City of Rexburg, provided, however that the Planning and Zoning Department is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

4) Aesthetics. Towers and antennas shall meet the following requirements:

   a) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.

   b) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

   c) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

5) Lighting. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

6) State or Federal Requirements. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government

with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

7) Building Codes; Safety Standards. To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the City of Rexburg concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said thirty (30) days shall constitute grounds for the removal of the tower or antenna at the owner=s expense.

8) Measurement. For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in City of Rexburg irrespective of municipal and county jurisdictional boundaries.

9) Not Essential Services. Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

10) Franchises. Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in City of Rexburg have been obtained and shall file a copy of all required franchises with the Planning and Zoning Department.

11) Public Notice. For purposes of this ordinance, any Conditional Use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Section 7(b) (5) (ii), Table 2, in addition to any notice otherwise required by the Zoning Ordinance.

12) Signs. No signs shall be allowed on an antenna or tower.

13) Buildings and Support Equipment. Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 8.

14) Multiple Antenna/Tower Plan. City of Rexburg encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites.

Applications for approval of multiple sites shall be given priority in the review process. (Ord. 915 §4, 2004).

16.04.040 Permitted uses

1) General. The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

2) Permitted Uses. The following uses are specifically permitted:

    (1) Antennas or towers located on property owned, leased, or otherwise controlled by the City of Rexburg provided a license or lease authorizing such antenna or tower has been approved by City of Rexburg. (Ord. 915 §5, 2004).

16.04.050 Administratively approved uses

1) General. The following provisions shall govern the issuance of administrative approvals for towers and antennas.

    a) The Planning and Zoning Department may administratively approve the uses listed in this Section.

    b) Each applicant for administrative approval shall apply to the Planning and Zoning Department providing the information set forth in Sections 7(b)(1) and 7(b)(3) of this ordinance and a nonrefundable fee as established by resolution of Council to reimburse City of Rexburg for the costs of reviewing the application.

    c) The Planning and Zoning Department shall review the application for administrative approval and determine if the proposed use complies with Sections 4, 7(b) (4) and 7(b) (5) of this ordinance.

    d) The Planning and Zoning Department shall respond to each such application within sixty (60) days after receiving it by either approving or denying the application. If the Planning and Zoning Department fails to respond to the applicant within said sixty (60) days, then the application shall be deemed to be approved.

    e) In connection with any such administrative approval, the Planning and Zoning Department may, in order to encourage shared use, administratively waive any zoning district setback requirements in Section 7(b)(4) or separation distances between towers in Section 7(b)(5) by up to fifty percent (50%).

    f) In connection with any such administrative approval, the Planning and Zoning Department may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

    g) If an administrative approval is denied, the applicant shall file an application for a Conditional Use permit pursuant to Section 7 prior to filing any appeal that may be available under the Zoning Ordinance.

2) List of Administratively Approved Uses. The following uses may be approved by the Planning and Zoning Department after conducting an administrative review:

a) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial or heavy commercial zoning district.

b) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.

i) Antennas on existing structures. Any antenna which is not attached to a tower may be approved by the Planning and Zoning Department as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided:

(1) The antenna does not extend more than thirty (30) feet above the highest point of the structure;

(2) The antenna complies with all applicable FCC and FAA regulations; and

(3) The antenna complies with all applicable building codes.

ii) Antennas on existing towers. An antenna which is attached to an existing tower may be approved by the Planning and Zoning Department and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(1) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Planning and Zoning Department allows reconstruction as a monopole.

(2) Height

(a) An existing tower may be modified or rebuilt to a taller height, not to exceed thirty (30) feet over the tower=s existing height, to accommodate the collocation of an additional antenna; except, the tower may not exceed the elevation of the Rexburg water tower.

(b) The height change referred to in subsection (iii) (a) may only occur one time per communication tower.

(c) The additional height referred to in subsection (iii) (a) shall not require an additional distance separation as set forth in Section 7. The tower=s pre-modification height shall be used to calculate such distance separations.

(3) Onsite location

(a) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within fifty (50) feet of its existing location.

(b) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(c) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to section 7(b) (5). The relocation of a tower hereunder shall in no way be deemed to cause a violation of Section 7(b) (5).

(d) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in Section 7(b)(5) shall only be permitted when approved by the Planning and Zoning Department.

c) New towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Planning and Zoning Department concludes the tower is in conformity with the goals set forth in Section 1 and the requirements of Section 4; the tower meets the setback requirements in Section 7(b)(4) and separation distances in Section 7(b)(5); and the tower meets the following height and usage criteria:

i) for a single user, up to ninety (90) feet in height;

ii) for two users, up to one hundred twenty (120) feet in height; and

iii) for three or more users, up to one hundred fifty (150) feet in height; Except, the tower may not exceed the elevation of the Rexburg water tower.

d) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Planning and Zoning Department is in conformity with the goals set forth in Section 1 of this ordinance.

e) Installing a cable micro cell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers. (Ord. 915 §6, 2004).

16.04.060 Conditional use permits

1) General. The following provisions shall govern the issuance of special use permits for towers or antennas by the Planning Commission:

   a) If the tower or antenna is not a permitted use under Section 5 of this ordinance or permitted to be approved administratively pursuant to Section 6 of this ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

   b) Applications for special use permits under this Section shall be subject to the procedures and requirements of Chapter 6.13 [Chapter on Conditional uses] of the Zoning Ordinance, except as modified in this Section.

   c) In granting a Conditional Use Permit, the Planning Commission may impose conditions to the extent the Planning Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

   d) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.

   e) An applicant for a Conditional Use Permit shall submit the information described in this Section and a non-refundable fee as established by resolution of the Council to reimburse City of Rexburg for the costs of reviewing the application.

2) Towers.

   a) Information required. In addition to any information required for applications for Conditional Use Permits pursuant to Chapter 6.13 [Chapter on Conditional Uses] of the Zoning Ordinance, applicants for a Conditional Use Permit for a tower shall submit the following information:

      i) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning, Master Plan classification of the site and all properties within the applicable separation distances set forth in Section 7(b)(5), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, site elevations, parking, and other information deemed by the Planning and Zoning Department to be necessary to assess compliance with this ordinance.

      ii) Legal description of the parent tract and leased parcel (if applicable).

      iii) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.

iv) The separation distance from other towers described in the inventory of existing sites submitted pursuant to Section 4(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known.

v) A landscape plan showing specific landscape materials.

vi) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.

vii) A description of compliance with Sections 4(c), (d), (e), (f), (g), (j), (l), and (m), 7(b) (4), 7(b) (5) and all applicable federal, state or local laws.

viii) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.

ix) Identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality.

x) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.

xi) A description of the feasible location(s) of future towers or antennas within the City of Rexburg based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

b) Factors Considered in Granting Conditional Use Permits for Towers. In addition to any standards for consideration of Conditional Use Permits applications pursuant to Chapter 6.13 [Chapter on Conditional uses] of the Zoning Ordinance, the Planning Commission shall consider the following factors in determining whether to Conditional Use Permits, although the Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this ordinance are better served thereby:

i) Height and elevation of the proposed tower;

ii) Proximity of the tower to residential structures and residential district boundaries;

iii) Nature of uses on adjacent and nearby properties;

iv) Surrounding topography;

v) Surrounding tree coverage and foliage;

vi) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;

vii) Proposed ingress and egress; and

viii) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in Section 7(b)(3) of this ordinance.

c) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Planning Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.

ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.

iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.

iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

v) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.

vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable micro cell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

d) Setbacks. The following setback requirements shall apply to all towers for which a Conditional Use Permit is required; provided, however, that the Planning Commission may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

i) Towers must be set back a distance equal to at least seventy-five percent (75%) of the height of the tower from any adjoining lot line.

ii) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

e) Separation. The following separation requirements shall apply to all towers and antennas for which a Conditional Use Permit is required; provided, however, that the Planning Commission may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.

i) Separation from off-site uses/designated areas.

(a) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.

(b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

Off-site Use/Designated Area	Separation Distance
Single-family or duplex residential units[1]	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower[2] whichever is greater
Vacant unplatted residentially zoned lands[3]	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

[1]Includes modular homes and mobile homes used for living purposes.
[2]Separation measured from base of tower to closest building setback line.
[3]Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

ii) Separation distances between towers.

(a) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower.

The separation distances (listed in linear feet) shall be as shown in Table 2.

Table 2:

Existing Towers – Types

	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5000	5000	1,500	750
Guyed	5000	5000	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1500	1,500	750
Monopole Less Than 75 Ft in Height	750	750	750	750

f) Security fencing. Towers shall be enclosed by security fencing not less than six feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Planning Commission may waive such requirements, as it deems appropriate. (7) Landscaping. The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Planning Commission may waive such requirements if the goals of this ordinance would be better served thereby.

i) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

ii) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

iii) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer. (Ord. 915 §7, 2004).

16.04.060 Building or other equipment storage

1) Antennas Mounted on Structures or Rooftops. Towers or associated cabinets are not allowed on roof tops or existing structures.

2) Antenna's Support Cabinets. The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

   a) In residential districts, the equipment cabinet or structure may be located:

      i) In a front or side yard provided the cabinet or structure is no greater than 8 feet in height or 100 square feet of gross floor area and the cabinet/structure is located a minimum of 25 feet from all front yard lines and 6 feet from side yard setbacks, (lot lines). The cabinet/structure shall be screened by an evergreen hedge with an initial height of at least 42-48 inches.

      ii) In a rear yard, provided the cabinet or structure is no greater than 8 feet in height or 100 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 48 inches.

   b) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 8 feet in height or 169 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by solid fence 6 feet in height or an evergreen hedge with an ultimate height of eight (8) feet and a planted height of at least 36 inches.

3) Antennas Located on Towers. The related unmanned equipment structure shall not contain more than 100 square feet of gross floor area or be more than 8 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

4) Modification of Building Size Requirements. The requirements of Sections 8(a) through (c) may be modified by the Planning and Zoning Department in the case of administratively approved uses or by the Planning Commission in the case of uses permitted by special use to encourage collocation. (Ord. 915 §8, 2004).

16.04.070 Removal of abandoned antennas and towers

Any antenna or tower that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within ninety (90) days of receipt of notice from the City of Rexburg notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said ninety (90) day shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. (Ord. 915 §9, 2004).

16.04.080 Nonconforming uses

1) No Expansion of Nonconforming Use. Towers that are constructed and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

2) Preexisting towers. Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

3) Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas. Notwithstanding Section 9, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a Conditional Use Permit and without having to meet the separation requirements specified in Sections 7(b)(4) and 7(b)(5). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 9. (Ord. 915 §10, 2004).

CHAPTER 16.05 FENCING, SCREENING, AND BUFFERS

16.05.010 Fencing and screening requirements*

*Zone specific fencing and screening requirements are presented in sections addressing those zones.

Screening and fences within the City shall be constructed and maintained in conformance with the following standards:

1) Screening Requirements.

   a) PARKING AREAS. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum of four (4) foot-landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence otherwise in compliance with this ordinance of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

   b) COMMERCIAL/INDUSTRIAL USES. Where a commercial or industrial use adjoins uses, residential zones, or undeveloped land shown as residential uses on the Comprehensive Plan, there shall be proved along the abutting property line a yard equal

in width to that required in the residential zone. The yard shall be planted with a combination of shade trees, low shrubs, and ground cover, and/or a suitable fence otherwise in compliance with this ordinance of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

c) HIGH DENSITY RESIDENTIAL USES. Where a lot in the HDR or HRD2 district adjoins a lot in the LDR, LDR1, or MDR district or unincorporated and designated as single-family in the Comprehensive Plan, a seven (7) foot wide landscaped buffer shall be proved on said property line. The buffer shall consist of ground cover and trees. The trees shall be planted at forty foot intervals. When a public street is located between the front lot line of the HDR zone and the single-family zone, a landscaped buffer seven (7) feet wide shall be constructed and maintained on the front lot line. The buffer shall include trees and an understory of shrubs. The landscaping shall be planned and maintained so as not to violate Section 4-6 of this Ordinance.

d) OPEN STORAGE AREA. Open storage area in commercial zones shall be screened from view of the streets by structures or by a landscaped strip at least seven (7) feet in width which may include a fence or wall.

2) Fencing Requirements. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three feet. Fences would be allowed in excess of three feet if constructed out of rigid materials and approved by Planning & Zoning with fifty (50) percent or more see through per lineal foot and that they be between three (3) to six (6) feet high within 15 feet of the right-of-way. Fences shall not be greater in height than eight (8) feet. (Amended the 15th day of April 1998; Ordinance No. 802)

a) SWIMMING POOLS. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices.

b) DOG RUNS. Dog runs shall be placed in rear yards only and shall be at least ten (10) feet from any residence.

c) SCHOOLS, CHURCHES, UNIVERSITIES, COLLEGES, HOSPITALS, NURSING HOMES, CITY AND COUNTY. The height, location and placement of fences by the foregoing entities may be altered, subject to prior written approval of the Planning and Zoning Commission. However, sight triangles at any intersection must be maintained pursuant to Section 4.6 of Ordinance 926.

d) COMMERCIAL AND INDUSTRIAL ZONES. Any fence higher than thirty-six (36) inches cannot extend beyond the line of the existing buildings. As long as there are no set-back requirements for the building, then there shall be no set-back requirements for fences. In any set-back area bordering a street, the fence cannot be higher than 36 inches within the designated set-back from the property line to the front of a building.

i) Frontages. The maximum height of any fence, wall, or other sight obscuring object within fifteen (15) feet of the public right-of -way shall be three (3) feet. Fences shall not be greater in height than eight (8) feet.

ii) Floodplain. No fence shall be constructed in the floodway without the approval of the Planning and Zoning Commission.

iii) Barbed Wire and Electric Fences. Barbed wire and electric fences shall not be erected or maintained within the City unless approved by the Planning and Zoning Commission.

iv) Maintenance. Fences shall be maintained in a good state of repair.

v) Compliance with Section 4-6. The height provisions of this section on fences shall not be construed to permit any structure, fence, wall, shrub, hedge, or sight obscuring object to exist in violation of Section 4-6 of Ordinance 926. (Ord. 926, §4.7).

16.05.020 Clear view of intersecting streets

1) For the purpose of insuring reasonable visibility and safety in residential zones and other zones which require buildings to be set back from the property line, the triangle of land formed on any corner lot by drawing a line between points on the lot lines which are thirty feet (30) from the intersection of such lot lines shall be free from any sight obscuring structure or obstruction except as permitted below.

2) Trees in such triangles shall be trimmed to at least seven (7) feet above the centerline grades of the intersecting streets. Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets. (Ord. 926, §4.6, 2005).

16.05.030 Commercial design standards

1) Structures 25,000 sq. ft. and greater.

a) Parking. Parking shall be located to the rear of the building or screened so that it does not dominate the streetscape. Fences, hedges, berms and landscaping shall be used to screen parking areas. When large parking lots are necessary, increase the landscaping to screen the lot and divide the lot into smaller components. Landscape islands must be provided in the interior of large lots. These may double as snow storage areas in the winter months. (Ord. 926, §4.13, 2005).

i) Parking Lot Orientation / Visual Mitigation.

(1) Intent. Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance.

(2) Standard. No more than 60 percent of the off-street parking area for the entire property shall be located between the front facade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by out-lot development (such as restaurants) and additional tree plantings and/or berms.

(3) Intent. Parking areas should be visually buffered from the adjoining streets. Minimize the visual impact of off street parking.

(4) Standard. Parking shall be located to the rear of the building or screened so that it does not dominate the streetscape. Fences, hedges, berms and landscaping shall be used to screen parking areas. When large parking lots are necessary, increase the landscaping to screen the lot and divide the lot into smaller components. Landscape islands must be provided in the interior of large lots. These may double as snow storage areas in the winter months. (Ord. 926, §4.13(5.b.ii), 2005).

b) Back and Sides

i) Intent. The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features should mitigate these impacts. Any back or side of a building visible from a public or private right-of-way shall be built in accordance with Article I. The Planning Commission may waive this requirement as part of an agreed upon development plan.

ii) Standard. The minimum setback for any building facade shall be in accordance with the requirements for all commercial zones, except Central Business District. Where the facade faces adjacent residential uses an earthen berm shall be installed, no less than 6 feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of 15 feet on center. Additional landscaping may be required by the Planning Commission to effectively buffer adjacent land use as deemed appropriate. Any and all additional landscape requirements of all of the Commercial zones, except Community Business Center, shall apply. (Ord. 926, §4.13(5.b.iii), 2005).

c) Outdoor Storage, Trash Collection, and Loading Areas

i) Intent. Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one

building is located on a site and such buildings are not more than forty (40) feet apart, or on those sides of buildings that do not have customer entrances.

ii) Standard.

(1) Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.

(2) No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public thoroughfare or street, public sidewalk, or internal pedestrian way.

(3) Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.

(4) Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.

(5) Temporary sales/displays, such as Christmas trees, landscape materials, and fireworks, shall follow all outdoor requirements for all of the Commercial zones, except Central Business District, as described in the Development Code. Location and time/duration of such sales/displays shall be reviewed and approved by the Community Development Director or appointed designee. (Ord. 926, §4.13(5.b.iv), 2005).

2) Structures less than 25,000 sq. ft.

a) Parking Lot Orientation/Visual Mitigation

i) Intent. Parking areas should provide safe, convenient, and efficient access for vehicles and pedestrians. They should be distributed around large buildings in order to shorten the distance to other buildings and public sidewalks and to reduce the overall scale of the paved surface. If buildings are located closer to streets, the scale of the complex is reduced, pedestrian traffic is encouraged, and architectural details take on added importance.

ii) Standard. No more than 60 percent of the off-street parking area for the entire property shall be located between the front facade within the front yard of the principal building(s) and the primary abutting street unless the principal building(s) and/or parking lots are screened from view by out-lot development (such as restaurants) and additional tree plantings and/or berms.

iii) Intent. Parking areas should be visually buffered from the adjoining streets. Minimize the visual impact of off street parking.

iv) Standard. Parking shall be located to the rear of the building or screened so that it does not dominate the streetscape. Fences, hedges, berms and landscaping shall be used to screen parking areas. When large parking lots are necessary, increase the landscaping to screen the lot and divide the lot into smaller components. Landscape islands must be provided in the interior of large lots. These may double as snow storage areas in the winter months. (Ord. 926, §4.13(4.a.vii), 2005).

b) Back and Sides

i) Intent. The rear or sides of buildings often present an unattractive view of blank walls, loading areas, storage areas, HVAC units, garbage receptacles, and other such features. Architectural and landscaping features should mitigate these impacts. Any back or side of a building visible from a public or private right-of-way shall be built in accordance with Article I. The Planning Commission may waive this requirement as part of an agreed upon development plan.

ii) Standard. The minimum setback for any building facade shall be in accordance with the requirements for all Commercial zones, except Community Business Center. Where the facade faces adjacent residential uses an earthen berm shall be installed, no less than 6 feet in height, containing at a minimum, a double row of evergreen or deciduous trees planted at intervals of 15 feet on center. Additional landscaping may be required by the Planning Commission to effectively buffer adjacent land use as deemed appropriate. Any and all additional landscape requirements of all the all Commercial zones, except Central business District, shall apply. (Ord. 926, 4.13(4.a.vii), 2005).

c) Outdoor Storage, Trash Collection, and Loading Areas

i) Intent. Loading areas and outdoor storage areas exert visual and noise impacts on surrounding neighborhoods. These areas, when visible from adjoining properties and/or public streets, should be screened, recessed or enclosed. While screens and recesses can effectively mitigate these impacts, the selection of inappropriate screening materials can exacerbate the problem. Appropriate locations for loading and outdoor storage areas include areas between buildings, where more than one building is located on a site and such buildings are not more than 40 feet apart, or on those sides of buildings that do not have customer entrances.

ii) Standard.

(1) Areas for outdoor storage, truck parking, trash collection or compaction, loading, or other such uses shall not be visible from public or private rights-of-way.

(2) No areas for outdoor storage, trash collection or compaction, loading, or other such uses shall be located within 20 feet of any public thoroughfare or street, public sidewalk, or internal pedestrian way.

(3) Loading docks, truck parking, outdoor storage, utility meters, HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets, and no attention is attracted to the functions by the use of screening materials that are different from or inferior to the principal materials of the building and landscape.

(4) Non-enclosed areas for the storage and sale of seasonal inventory shall be permanently defined and screened with walls and/or fences. Materials, colors, and designs of screening walls and/or fences and the cover shall conform to those used as predominant materials and colors of the building. If such areas are to be covered, then the covering shall conform to those used as predominant materials and colors on the buildings.

(5) Temporary sales/displays, such as Christmas trees, landscape materials, and fireworks, shall follow all outdoor requirements for all the Commercial zones, except Community Business Center, as described in the Development Code. Location and time/duration of such sales/displays shall be reviewed and approved by the Community Development Director or appointed designee. (Ord. 926, §4.13(4.a.ix), 2005).

16.05.040 Administrative procedures

Permits Required. No person shall erect, construct, enlarge, alter, repair, move, convert, or demolish any building, sidewalk, driveway, carport, parking area or any other structure, without first obtaining a building permit for each building, sidewalk, driveway, carport, parking area or any other structure from the City. To apply for a permit, the applicant shall file an application with the City Clerk or representative. To provide the information necessary to determine compliance with the provisions of this Ordinance, the application shall require the following:

1) Name, address, and phone number of applicant.

2) Name, address, and phone number of owners of the property, if owner is not the applicant.

3) Legal description of the property.

4) Existing use.

5) Proposed use.

6) Zoning district.

7) A site plan drawn to scale showing the actual dimensions and the shape of the lot to be built upon; the exact size and location of existing buildings on the lot, if any; the exact location and dimensions of the proposed building, sidewalk, driveway, carport, parking area or any other structure or alteration; the location, layout, and access of proposed on-site parking; and the location and type of landscaping, fencing, and screening proposed on the lot.

8) Building heights.

9) Number and dimensions of off-street parking spaces and loading berths.

10) Proposed water and sewer facilities.

11) Existing and proposed easements.

12) Proposed storm drainage for multi-family and commercial and industrial developments.

13) Applications subject to site plan review as described in Section 6.11 shall also include detailed drawings of all elevations (front, rear and sides) in order to demonstrate compliance with Section 4.13 of Ordinance 926.

14) Such other matters as may be necessary to determine compliance with City ordinances. (Ord. 926, §6.9, 2005).

16.05.050 Direct access restricted road

Direct Access Restricted Road. The Madison County Commission together with the Rexburg City Council shall designate certain roads and streets located within the Area of City Impact as "direct access restricted roads." No lot or parcel of ground adjoining such designated roads or streets shall have direct access to such roads without the prior approval of the Rexburg Planning and Zoning Commission. Access to and from said lots or parcels shall be by roads, streets or frontage roads which have been approved by the Rexburg Planning and Zoning Commission. Said lots or parcels shall comply with the following requirements:

1) Such lots shall reverse frontage on the designated "direct access-restricted road."

2) Such lots shall be buffered from the "direct access restricted road by any effective combination of the following: Lot depth, earth berms, vegetation, walls or fences and structural sound proofing. (Ord. 926, §8, 2005).

16.05.060 Buffer defined

Buffer Area. A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. (Ord. 926 §2.1, 2005).

16.05.070 Low Density Residential 1 (LDR1)

Screening and fencing within the City of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

   Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.
2) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self latching devices. (Ord. 926, §3.4.150, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.4.090(a), 2005). Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets may also be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.4.090(d), 2005).

16.05.080 Low Density Residential 2 (LDR2)

Fencing and Screening. Screening and fencing within the City of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

2) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

3) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices. (Ord. 926, §3.5.150, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.5.090(a), 2005). Shrubs, fences, and walls not higher than three (3) feet above the centerline grades of the intersecting streets may also be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.5.090(d), 2005).

16.05.090 Low Density Residential 3 (LDR3)

Fencing and Screening. Screening and fencing within the City Of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

2) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

3) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices. (Ord. 926, §3.6.150, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.6.090(a), 2005). Shrubs, fences, and walls, which shall not be higher than three (3) feet above the centerline grades of the intersecting streets, may also be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.6.090(d), 2005).

16.05.100 Medium Density Residential 1 (MDR1)

Fencing and Screening. Screening and fencing within the City Of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence

of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

2) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

3) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices. (Ord. 926, §3.7.150, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.7.090(a), 2005). Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets. (Ord. 926, §3.7.090(d), 2005).

16.05.110 Medium Density Residential 2 (MDR2)

Purposes and Objectives. The MDR2 zone is established to protect stable neighborhoods of detached single-family dwellings on smaller lots and to act as a buffer between single-family dwellings and non-single-family zones. (Ord. 926 §3.8.010, 2005).

Fencing and Screening. Screening and fencing within the City Of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

2) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

3) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices. (Ord. 926, §3.8.150).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required

setback or right-of-way. (Ord. 926, §3.8.090(a), 2005). Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets. (Ord. 926, §3.8.090(d), 2005).

16.05.120 High Density Residential 1 (HDR1)

Fencing and Screening. Screening and fencing within the City Of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

2) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

3) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices. (Ord. 926, §3.9.150, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.9.090(a), 2005). Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets. (Ord. 926, §3.9.090(d), 2005).

16.05.130 High Density Residential 2 (HDR2)

Fencing and Screening. Screening and fencing within the City Of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Buffers. Where a lot in the HDR1 or HDR2 zone adjoins a lot in the LDR1, LDR2, LDR3, MDR1, or MDR2 zone, or an unincorporated lot designated as single family in the Comprehensive Plan, a seven (7) foot wide landscaped buffer shall be provided on said property line. The buffer shall consist of ground cover and trees. The trees shall be planted at forty (40) foot intervals. When a public street is located between the front lot line of the HDR1 or HDR2 zone and any single family zone, a landscaped buffer seven (7) feet wide shall be constructed and maintained on the front lot line. The buffer shall include trees and an under story of shrubs. The landscaping shall be planned and maintained so as not to violate Ord. 926, §3.10.090 (see Setbacks and Rights-of-Way Exceptions).

2) Fences. A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential or commercial zone. (Ord. 926, §3.10.150, 2005).

Setbacks and Rights-of-Way Exceptions.

1) Expectations. The following structures may be erected on or projected into any required setback or right-of-way:

    a) Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances.

    b) Landscape elements including trees, shrubs, agricultural crops and other plants.

    c) Necessary appurtenances for utility service.

    d) In all zones the area between the curb and gutter and the sidewalk is to be landscaped and maintained by the adjacent property owner. For the purpose of insuring visibility and safety in residential zones and other zones which require buildings to be set back from the property line, the triangle of land formed on any corner lot by drawing a line between points on the lot lines, which are forty (40) feet from the intersection of such lot lines, shall be free from any sight obscuring structure or obstruction except as permitted. Trees in such triangles shall be trimmed to at least ten (10) feet above the centerline grades of the intersecting streets. Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets. (Ord. 926, §3.10.090, 2005).

16.05.140 Rural Residential 1 (RR1)

Fencing and Screening. Screening and fencing within the City of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

Parking, Loading and Access.

1) Requirements. The Madison County Commission together with the Rexburg City Council shall designate certain roads and Streets located within the area of city Impact as Direct Access Restricted Road. No lot or parcel of ground adjoining such designated roads or streets shall have direct access to such road without the prior approval of the Rexburg Planning and Zoning Commission. Access to and from said lots or parcels shall be by roads, streets or frontage roads which have been approved by the Rexburg Planning and Zoning Commission. Said lots or parcels shall comply with the following requirements:

    a) Such lots shall reverse frontage on the designated direct accesses restricted road.

b) Such lots shall be buffered from the direct access restricted road by any effective combination of the following: lot depth, earth berms, vegetation, walls or fences, and structural sound proofing.

c) The minimum lot depth shall be two hundred (200) feet except where the use of berms, vegetation and structures can be demonstrated to constitute an effective buffer for a dwelling on a lot less than two hundred (200) feet in depth.

d) Whenever practical existing roadside trees shall be saved and used in the arterial buffer.

e) Site plans, subdivision requirements, annexation and development agreement shall include provision for installation and continued maintenance of all buffers and compliance with all city and county ordinances applicable within the area of city impact. (Ord. 926, 3.11.130, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.11.090(a), 2005).

16.05.150 Rural Residential 2 (RR2)

Fencing and Screening. Screening and fencing within the City of Rexburg shall be constructed and maintained in conformance with the following standards:

1) Parking Areas. An effective buffer shall be provided between parking areas for more than five (5) vehicles and existing residential uses, schools, hospitals, nursing homes and other institutions for long-term human care. The buffer shall consist of a minimum four (4) foot wide landscaped strip to be planted with shade trees and low shrubs, and/or a suitable fence of sufficient height and density to screen the two parcels, as specified by the Planning and Zoning Commission.

2) Fences. The maximum height of any fence, wall, or sight obscuring objects within fifteen (15) feet of the public right-of-way shall be three (3) feet. Fences will be allowed in excess of three (3) feet and up to six (6) feet if constructed out of rigid materials and are fifty percent (50%) or more see through per lineal foot. All other fences shall not be greater in height than eight (8) feet unless approved by the Planning and Zoning Commission.

3) Unenclosed Swimming Pools. Unenclosed swimming pools shall be surrounded by fences at least five (5) feet in height. Any opening shall be equipped with self-enclosing and self-latching devices. (Ord. 926, §3.12.150, 2005).

Setbacks and Rights-of-Way Exceptions. Fences and walls in conformance with the Rexburg City Code and other City codes or ordinances may be erected on or projected into any required setback or right-of-way. (Ord. 926, §3.12.090(a), 2005). Shrubs, fences, and walls shall not be higher than three (3) feet above the centerline grades of the intersecting streets. (Ord. 926, §3.12.090(d), 2005).

16.05.160 Neighborhood Business District (NBD)

Walls and Fences.

1) No wall, fence or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in an NBD zone.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.13.160(E), 2005).

Transitional Development Standards. Where a lot or parcel in any business, commercial, manufacturing, or industrial zone borders a residential zone, the buffering standards set forth in Rexburg City Code shall apply. (Ord. 926, §3.13.160(F), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into any required yard, except for a required driveway. (Ord. 926, §3.13.090(a), 2005).

16.05.170 General Business District (GBD)

Walls and Fences.

1) No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in a CG zone.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.14.090(5), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on, or project into, any required yard, except into a required driveway. (Ord. 926, §3.14.090(1a), 2005).

16.05.180 Central Business District (CBD)

Walls and Fences.

1) No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within an area which would tend to inhibit a safe sight distance of traffic traveling upon a public street, or entering into the public street from a private driveway or alley.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.15.150(6), 2005).

Fencing Standards. The term "fence" shall include any tangible barrier, lattice work, screen, wall, hedge, or continuous growth of shrubs or trees with the purpose of, or having the effect of preventing passage or view across the fence line. Fences six feet or less in height shall not require a building permit. Fences over six feet in height must obtain a building permit from the Building Inspection Division. Any fence, wall, screen, hedge or other material serving as a fence, shall not create a sight distance hazard to vehicular or pedestrian traffic as determined by the Rexburg City traffic engineer. The following standards shall apply in all residential projects in the CBD zone:

1) Front Yard. Solid walls, fences, hedges or screening materials which are sight obscuring may be built to a maximum of three (3) feet in any required front yard perimeter. Walls, fences, hedges or screening materials which are not sight obscuring (at least 50% open) may be built to a maximum of six (6) feet in a front yard.

2) Side Yard. Solid, sight obscuring fences or walls may be built to a maximum of three (3) feet but may slope upward to connect with a higher rear yard fence. The sloped length may not exceed one section or a maximum of ten (10) feet.

3) Rear Yard. Walls and fences in a rear yard may exceed six (6) feet provided that a building permit is first obtained from the Building Inspection Division prior to construction.

4) Corner Lots. A fence not more than six (6) feet high may be constructed in a side yard adjacent to a public street on a corner lot, provided it does not extend into the clear vision area of a corner lot as defined by section 16.05.020, Rexburg City Code.

5) Entryways. Entry treatments to private driveways or subdivision development entrances may not exceed six (6) feet at the highest point, except lamps on pillars. Pillars shall be allowed to extend up to eighteen inches above the allowable height of a fence provided that the pillars shall have a minimum spacing of no less than six feet, measured face to face.

6) Grade differences. Where there is a difference in the grade of the properties on either side of a fence, wall or other similar structure, the height of the fence shall be measured from the natural grade of the property upon which it is located.

7) Retaining Walls. Where a retaining wall protects a cut below or a fill above the natural grade and is located on the line separating lots or properties, such retaining wall may be topped by a fence, wall or hedge of the same height that would otherwise be permitted at the location if no retaining wall existed.

8) Privacy Walls. Privacy walls which project into a required front yard will be subject to staff review.

9) Double Frontage Lots. A fence or wall may be erected in the rear yard of a double frontage lot subject to staff review.

10) Exceptions. The provisions of this Section shall not apply to certain other fences such as tennis court backstops or patio enclosures as approved by the Zoning Administrator, if it is determined that such do not create a hazard or violation of other sections of the Rexburg City Code or other City ordinances. All other exceptions must obtain Planning Commission approval. (Ord. 926, §3.15.160(8), 2005).

Detailed Storefront Design. All buildings shall contribute to the storefront character and visual relatedness of [Main Street / Downtown] buildings. This criterion is met by providing all of the architectural features listed in a-e, below, along the front building elevation (i.e., facing the street), as applicable. [Note: the example shown above is meant to illustrate required building design elements, and should not be interpreted as a required architectural style.] Corner lots will be subject to application of the standards to both street facing elevations unless an approved landscape buffer is applied. (Ord. 926, §3.15.170(E.3.b.1), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or project into a required yard, provided it does not obstruct a required driveway. (Ord. 926, §3.15.090(1), 2005).

16.05.190 Local Business Center (LBC)

Walls and Fences.

1) No wall, fence or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in an LBC zone.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.16.160(5), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into any required yard, except for a required driveway. (Ord. 926, §3.16.090(1), 2005).

16.05.200 Community Business Center (CBC)

Walls and Fences.

1) No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in an CSC zone.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement, the masonry wall will be required. (Ord. 926, §3.17.160(5), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or project into any required yard, except required driveways. (Ord. 926, §3.17.090(a), 2005).

16.05.210 Regional Business Center (RBC)

Walls and Fences.

1) No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in an RSC zone.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.18.160, 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or project into any required yard, except they may not obstruct a required driveway. (Ord. 926, §3.18.090(1), 2005).

16.05.220 Light Industrial District (LI)

Walls and Fences.

1) No wall, fence, or opaque hedge or screening material shall be placed or erected within an area which would restrict the sight distance for vehicular traffic in the public right-of-way.

The clear-vision area as defined in Section 16.05.020, Rexburg City Code shall be maintained for clear visibility as required by the Section.

2) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.19.150(5), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into the required front yard. (Ord. 926, §3.19.190(1), 2005).

16.05.230 Heavy Industrial District (HI)

Walls and Fences.

No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a front yard in the HI zone.

1) A decorative masonry wall, at least six (6) feet in height, shall be erected along all property lines which lie adjacent to a residential zone. In the case where there is mutual agreement between the property owners of the commercial zone and the adjacent residential zone, the masonry wall requirement may be modified to allow other suitable materials. A signed agreement must be submitted to the Planning Commission or its designee, indicating this agreement. In the case where there is not mutual agreement, the masonry wall will be required. (Ord. 926, §3.20.150(5), 2005).

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or project into any required yard, except that they shall not obstruct a required driveway. (Ord. 926, §3.20.090(1), 2005).

16.05.240 Professional Office Zone (PO)

Purpose. The Professional Office Zone is established to create a buffering effect between residential uses and traffic associated with arterial and collector streets; and to promote non retail professional and service uses that are compatible with adjacent residential uses. (Ord. 926, §3.22, 2005).

Permissible Lot Coverage – Parking Structures. Parking structures shall be exempt from lot coverage requirements. Provided, however, that parking structures shall be screened and buffered from adjacent properties and public view as required. (Ord. 926, 3.22.120(B), 2005).

Walls and Fences.

1) No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in a PO zone.

2) A decorative masonry wall at least six (6) feet in height shall be erected along all property lines which lie immediately adjacent to any residential zone, except that alternative screening may be used which may include a landscape hedge of six (6) feet at a two (2) year maturity, wood fence or a combination of landscaping with chain-link, with or without slats. In the case where there is mutual agreement by adjoining property owners and approved by the Planning Commission or its designee, this requirement may be waived. (Ord. 926, §3.22.160(4), 2005).

Projections Into Yards. Fences and walls in conformance with the City Code and other City codes and ordinances may be erected on or projected into any required yard. (Ord. 926, §3.22.090(1), 2005).

16.05.250 Technology and Office Zone (TOZ)

Permissible Lot Coverage – Parking Structures. Parking structures shall be exempt from lot coverage requirements. Provided, however, that parking structures shall be screened and buffered from adjacent properties and public view as required Design Review. (Ord. 926, §3.23.120(B), 2005).

Walls and Fences.

No wall, fence, or opaque hedge or screening material higher than thirty-six (36) inches shall be maintained within a required front yard in a TOZ zone.

1) A decorative masonry wall at least six (6) feet in height shall be erected along all property lines which lie immediately adjacent to any residential zone, except that alternative screening may be used which may include a landscape hedge of six (6) feet at a two (2) year maturity, wood fence or a combination of landscaping with chain-link, with or without slats. In the case where there is mutual agreement by adjoining property owners and approved by the Planning Commission or its designee, this requirement may be waived. (Ord. 926, §3.23.160(d), 2005).

Projections Into Yards. Fences and walls in conformance with the City Code and other City codes and ordinances may be erected on or projected into any required yard. (Ord. 926, §3.23.090(1), 2005).

16.05.260 Public Facilities Zone (PF)

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into any required yard. (Ord. 926, §3.25.090(1), 2005).

16.05.270 University District (UD)

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into any required yard. (Ord. 926, §3.27.090(1), 2005).

16.05.280 Transitional Agricultural 1 (TAG1)

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into any required yard. (Ord. 926, §4.28.090(1) [sic], 2005).

16.05.290 Transitional Agricultural 2 (TAG2)

Projections into Yards. Fences and walls in conformance with the Rexburg City Code and other City codes and ordinances may be erected on or projected into any required yard. (Ord. 926, §3.29.090(1), 2005).

16.05.300 Project Redevelopment Option

PRO Zone Application Requirements.
Requirements. The following materials shall be included with every application for establishment of a PRO zone (for complete list of requirements, see Ord. 926 §3.30.040):

1) Proposed development standards, including:

    a) Land use standards establishing land use types, occupancy, location, density, buffering and any other element envisioned by applicable sections of the General Plan.

    b) Landscaping and buffering standards. (Ord. 926, §3.30.040(part), 2005).

CHAPTER 16.06 IMPACT ZONE

16.06.010 Geographic area of impact zone

There is hereby established and adopted a geographical area of City impact as shown of the attached map entitled "Area of City Impact for Rexburg, Idaho, July 09, 2002," which map is attached hereto and incorporated herein as if the same were sent out in full, and is hereby adopted as the official area of impact map. *See §1.06.010 for city map* (Ord. 880 §1, 2002).

16.06.020 Planning and zoning

The Rexburg City Planning and Zoning Ordinance, plus the Rexburg City Subdivision Ordinance and Rexburg Mobile Home Ordinance, and any and all amendments thereto, shall be in full force and effect within the area of city impact.

CHAPTER 16.07 PLANNED RESIDENTIAL DEVELOPMENT

16.07.010 Applicability

A Planned Residential Development (PRD) may be permitted as a conditional use within any zone, except the LDR zone, subject to the provisions of this section and all other applicable laws or ordinances. (Ord. 917, §1, 2004).

16.07.020 Purpose

1) The purpose of the PRD Ordinance is to create diverse and quality housing in the City of Rexburg.

2) The purpose of the PRD Ordinance is accomplished by:

   a) Allowing design flexibility in residential development;

   b) Establishing standards for landscaping, building and site design, public safety, parking, aesthetics, traffic circulation, fencing, lighting, and other similar site improvements; and

   c) Requiring standards that enable PRDs to integrate into the surrounding neighborhoods. (Ord. 917, §2, 2004).

16.07.030 Where allowed, types, and uses

1) A Planned Residential Development, hereinafter referred to as a PRD, is a permitted use in all residential zones, except LDR.

2) PRDs include single-family dwellings, twin homes, condominiums, townhouses, zero lot line developments, and apartments developed under this Article. Mixes of these various uses within the same PRD development is required. (Ord. 917, §3, 2004).

16.07.040 Site plan

1) Site Plan Application:

   a) Anyone desiring to develop a PRD shall first submit a PRD Development Review Application for concept plan approval. The applicant shall provide all requirements of the concept plan to the City before the City considers the application submitted and before action is taken. No PRD development will be considered for a site plan review until the concept level review is complete and approved by the Department of Community Development. After this conceptual approval the applicant may submit a completed site plan. The application for a site plan shall include all necessary fees and documentation required by this Article.

   b) The Department of Community Development shall review the site plan and give its recommendations to Planning & Zoning along with the plat.

2) Site Plan Approval:

a) The site plan must be approved by the Planning Commission before the final plat can be approved.

b) The developer shall submit a Development Review Application for final plat approval of all or part of the PRD together with all required fees. The final plat shall be prepared by the developer's surveyor and engineer.

c) The Department of Community Development shall review the final plat and give their recommendations to the Public Works Director.

d) The Public Works Director is the final approving authority for final plats and shall approve the application request if it meets the requirements of the approved site plan and all applicable City ordinances.

e) Failure to submit a final plat within two (2) years of the date of approval of the site plan shall terminate all proceedings and render approval of the site plan null and void. The final plat shall expire and be void one (1) year after approval by the City, unless the Office of the Madison County Recorder has recorded the plat.

3) Form and Contents of the Site Plan and Amended Site Plan:

a) Submittal. The applicant shall submit the site plan for a PRD to the City Department of Community Development. At that time the applicant shall pay all applicable fees in an amount established by Resolution of the City Council. No development, construction, revisions or additions shall take place on the site until the Planning and Zoning Commission has approved the site plan, the City has approved the final plat, and the developer has posted the necessary bonds, recorded the final plat, and obtained the appropriate permits. Applicants for amended site plans for PRDs shall follow the same procedures, pay the same fees, and are bound by the same development standards and requirements as applicants for site plans for PRDs. The Public Works Director or designee has the authority to make minor amendments to the site plan where such amendments are in compliance with the ordinance and the site plan is not materially altered.

b) Contents of Site Plan. The site plan for a PRD shall be a document consisting of one or more pages of maps and drawings drawn to scale. The applicant shall submit five (5) hard copies of the proposed site plan to the City Department of Community Development. One of the copies shall be 11"x17", and the other four copies shall be at least 8 ½"x11", but not larger than 22"x34". The applicant shall also submit one computer aided design (CAD) drawing on a computer disk formatted and compatible with the City=s computer system of each sheet of the site plan. The developer shall submit a site plan drawn to a scale large enough to clearly show all details and in any case the map scale shall not be smaller than sixty feet (60=) to the inch.

i) Application for the PRD concept plan and the PRD site plan shall both include the following items:

(1) Name of Development

(2) Name and address of applicant

(3) Name and address of owner of property

(4) North arrow

(5) Scale of drawing

(6) Area of lot in square feet

(7) Lot line dimensions

(8) A vicinity map containing sufficient information to accurately locate the property shown on the plan.

ii) Tabulation table in the following format:

	Square Footage	Acreage	Percent of Total
Total Area			100
Total Building Area			
Total Impervious Area			
Total Landscaped Area			
Total Consolidated Open Space			
Total Number of Parking Spaces:			
Covered:			
Uncoverered:			

(1) Names and locations of fronting streets and locations and dimensions of public streets, private streets, and driveways.

(2) Footprints of existing and proposed buildings and structures, including a notation of each unit's height above the grade.

(3) Location and size of existing proposed sewer lines and manholes, storm drain and manholes, supply main valves, water lines, culverts, and fire hydrants within the tract and within two hundred feet (200) of the boundaries of the proposed development.

(4) Location of existing and proposed fire protection devices.

(5) Location, dimensions, and distance to property lines of existing and proposed drive access.

(6) Location and dimensions of existing and proposed curbs, gutters and sidewalks.

(7) Location and dimensions of off-street parking spaces.

(8) Location and type of surface water drainage system and method of storm water disposal. This plan will also include detail as to location and percent of total PRD development dedicated to snow storage.

(9) Detailed landscape plan showing the specific types and locations of landscaping.

(10) Drawings of proposed structures, including covered or enclosed parking, showing the height, dimensions, appearance and materials proposed.

(11) Location and description (height, materials) of existing and proposed fences.

(12) Location and description (dimensions, distance to property lines and type of lighting (direct or indirect) of existing and proposed signs.

(13) Location and dimensions of consolidated open space.

(14) Location and type of solid waste disposal facilities.

(15) Traffic analysis when required by the City Engineer.

(16) Dwellings and other structures, parks, playgrounds, common areas and facilities limited common areas, private areas and facilities, and other improvements within the PRD.

(17) A map of existing and proposed contours drawn at two foot intervals with spot elevations showing existing and proposed drainage plans.

4) Site Plan Review Procedure:

a) Department of Community Development. The Department of Community Development shall review the site plan while considering whether it complies with the Rexburg Comprehensive Plan and all City ordinances, resolutions, and policies. The site plan shall comply with the Rexburg Comprehensive Plan and all City ordinances, resolutions and policies before the Planning Commission can review the application.

b) Planning and Zoning Commission. The Planning and Zoning Commission shall review the site plan and be the final approving authority for all site plans for PRDs. The Planning and Zoning Commission shall consider whether the proposed site plan complies with all City ordinances, resolutions, and policies when reviewing a site plan for a PRD. The City Council is the final approving authority for the Final Plat.

5) The applicant shall not amend or change any approved site plan without first following the procedure for approval of site plans.

6) The Planning Commission may impose conditions on the site plan to mitigate hazards. (Ord. 917, §4, 2004).

16.07.050 Final plat

1) The form and contents of the final plat shall contain all of the requirements listed in the City's subdivision ordinance. The final plat shall also contain the following information:

   a) A designation of common areas, limited common areas, and private ownership areas.

   b) For condominiums, three dimensional drawings of buildings and building elevations. In the case where the PRD is a condominium project, the developer shall submit a copy of the condominium documents prepared by an attorney who is licensed to practice in Idaho. This written statement shall be the attorney=s opinion that the condominium declaration, the subdivision plat and the other supporting documentation comply in all respects with the Idaho Condominium Ownership Act as well as all applicable federal, state and local laws and ordinances and that when the office of the Madison County Recorder has recorded the condominium declaration and final plat, the proposed project will be a validly existing and lawful condominium project in all respects.

   c) Written copies of any required agreements with property owners adjacent to the proposed PRD, or with any other person.

   d) Written approval of adjoining ditch or canal companies authorizing mandatory fencing of canals or piping of ditches.

   e) Plat restrictions, lot restrictions, and other information required by the Planning Commission or City Council.

2) PRD projects may be built in phases as long as each phase of a PRD complies with all of the requirements of this ordinance, except, however, that a phase of a PRD may be not less than 1.5 acres. Consideration will be given for staging of common areas, R.V. parking areas and other functions of the development that are not feasible to phase.

3) The Director of Public Works shall approve the final plat of the PRD provided he/she finds that

   a) The applicant has redrawn the site plan to incorporate all the requirements as approved by the Planning Commission and has submitted the corrected site plan with the final plat.

   b) A final landscaping plan shall be submitted with the final plat. The plan shall be prepared by a licensed landscape architect and include the proposed irrigation system layout.

   c) The applicant has incorporated all of the improvements and conditions of the approved site plan into the final plat.

   d) The City Engineer has approved all construction drawings of the PRD.

4) The Developer shall record the final plat after it obtains all of the required signatures and should then submit the required bonds and fees. (Ord. 917, §5, 2004).

16.07.060 Building permits

The City shall not issue a building permit for any project until the final plat has been recorded. All other permit issuance procedures shall be as set forth in the applicable planning, zoning or subdivision ordinances. (Ord. 917, §6, 2004).

16.07.070 Completion and maintenance of improvements

1) The Developer must complete all of the improvements required by the approved site plan for the final plat within two (2) years of the date of recording of the final plat. If the improvements are not completed within the time specified, the City shall have the option of taking action on the bond to complete the improvements.

2) Every PRD shall conform to the approved site plan. The applicant or any other person or entity shall not add any structures or make any improvements or changes to a PRD that did not appear on the approved site plan. The applicant and subsequent owners and applicable associations shall maintain all improvements shown on the site plan in a neat and attractive manner. Failure to complete or maintain a PRD in accordance with this Article and with the approved site plan is a violation of the terms of this Chapter. The City may initiate criminal and/or civil legal proceedings against any person, firm, entity or corporation, whether acting as principal, agent, property owner, lessee, lessor, tenant, landlord, employee, employer or otherwise, for failure to complete or maintain a PRD in accordance with this Article and with the approved site plan.

16.07.080 Development standards and requirements

1) The City requires the following development standards and requirements with all PRD's Density. The maximum density allowed in dwellings per gross acre (D/Ac) shall be determined by the underlying zones. Multifamily dwelling units constructed within an approved PRD must have at least five (5) dwelling units per individual structure.

2) Height: The maximum height for all structures in a PRD shall be thirty feet (30). However, if contiguous property to the proposed PRD has been developed with residential dwellings, then any structure within the PRD that is within 100 feet of the lot line of the adjacent lot containing a residential dwelling shall have no more stories than the adjacent residential dwelling. For example, if there is a single story home adjacent to a PRD, then no structure within the PRD that is within 100 feet of the lot line containing the single story dwelling shall be over one story.

3) Minimum Area: The minimum area required for any PRD shall be two (2) contiguous acres.

4) Setbacks: Setbacks from property not part of the PRD and from all public streets shall be at least twenty-five (25) feet. All garages shall be set back a minimum of twenty-two (22) feet from a private street or access driveway.

5) Utilities: The public sewer system and the public water supply shall serve all dwellings. All utilities shall be underground. The developer shall individually meter natural gas and electricity for each individual dwelling except that with apartment developments each building is required to have a minimum of one meter for natural gas and electricity. No water or sewer mainlines shall be located under any building structure.

6) Fences: Developers shall erect a fence with a minimum height of six feet (6') on the perimeter of all PRDs, except that no fence is required along street frontages. However, if the applicant desires a fence along a street frontage, the Planning Commission may approve the fence upon a favorable recommendation from the City Engineer that the fence does not interfere with traffic safety and is in compliance with the fencing requirement of the zoning ordinance. A stone, masonry, or cast concrete fence of at least eight (8) feet in height is required on PRD developments bordering a major arterial designated street. The perimeter fence shall have a consistent design throughout the project and use the same construction materials for the entire fence. Fence construction must be of a decorative or rough surface block, precast concrete that includes a cast decorative surface, high quality vinyl, or of a natural stone masonry. The purpose of the fencing requirement is to buffer the surrounding residential neighborhoods from the PRD and to buffer the PRD from surrounding commercial and industrial uses. The Planning Commission may waive the fencing requirement if the topography is such that the fence does not meet the purpose of the fencing requirements.

7) Landscaping:

   a) All land within the PRD not covered by buildings, driveways, sidewalks, structures, and parking areas, shall be permanently landscaped with trees, shrubs, lawn, or ground cover and maintained in accordance with good landscaping practice. All landscaping shall have a permanent underground sprinkling system.

   b) At least fifty percent (50%) of the net acreage (area of the development less public and private streets) of the entire development shall remain permanently landscaped.

   c) At least one (1) deciduous tree at least two (2) inch caliper measured four feet (4') above the ground, one (1) evergreen tree at least five (5) gallons in size, and sixteen (16) evergreen shrubs at least five (5) gallons in size are required for every two dwellings.

8) Lighting Plan: All PRDs shall include a lighting plan. The lighting plan shall be designed to:

   a) Discourage crime.

   b) Enhance the safety of the residents and guests of the PRD;

   c) Prevent glare onto adjacent properties; and enhance the appearance and design of the project.

   d) Protect the nighttime sky by selecting lighting that diffuses the light downward avoiding excessive glare.

All PRD homeowners' associations and apartment owners are required to control and meter all outside lighting shown on the lighting plan except for front and back door lighting. The lighting plan shall designate which lighting shall be commonly metered to the association or owner.

9) Parking. There shall be a minimum of two (2) parking spaces provided for each dwelling, one of which shall be in a garage. There shall also be a minimum of one half (2) parking space for each dwelling for guest parking within the development. Guest parking shall be located within one hundred fifty feet (150') of the dwellings served. All parking spaces shall measure at least nine feet (9') by eighteen feet (18'). Developers shall pave with asphalt and/or concrete all parking spaces, parking areas, and driveways and provide proper drainage. Drainage shall not be channeled or caused to flow across pedestrian walk ways. The architecture of all garage structures shall be compatible with the architecture of the main structures within the PRD.

10) Recreational Vehicle Storage: Recreational vehicle owners shall comply with Section 4.8.A. of the zoning ordinance governing parking of recreation vehicles. Owners shall not store recreational vehicles within a PRD except in an area the City Council has approved as part of the site plan for the storage of recreational vehicles. This requirement, with appropriate enforcement provisions, shall be included in all Covenants, Conditions and Restrictions, that run with the property; homeowners association bylaws; leases; rental agreements, etc. Land included in an approved RV storage area may be counted towards the 50% landscaping requirement; provided however, a maximum of 2% of the net acreage of the project may be used for this credit, so that in no event will the total amount of actual landscaping be less than 48% of the project net acreage. The developer shall enclose RV storage areas with a six foot (6') high sight obscuring fence and pave the area with concrete or asphalt.

11) Streets:

    a) For the purposes of this Article the following definitions apply:

        i) Public Street shall mean a right-of-way owned by the City that has a minimum width of at least sixty eight feet (68') and complies with the street plan in the comprehensive plan.

        ii) Private Street shall mean a vehicular access owned and maintained privately that has a minimum width not less than thirty six feet (36') in width.

        iii) Private Drive shall mean a vehicular right-of-way owned and maintained privately that is less than thirty-six feet (36') in width and is not less than twenty-four feet (24') in width.

    b) The minimum public street shall have a five foot (5') wide concrete sidewalk, a seven foot (7') planter strip, and curb and gutter on each side and at least thirty-nine feet (39') of asphalt or concrete paving. The exception to this requirement is in the Rural Residential zones where the engineering section for the RR zone will apply. Sidewalk is required in all clustered housing areas in the RR zones.

c) A private street shall be paved with either concrete or asphalt, include a five foot (5') wide sidewalk separated from the street by a minimum seven foot (7') wide parkway on at least one side and curb and gutter.

d) A private drive shall be paved with either concrete or asphalt.

e) All streets that are shown on the Rexburg City Master Street Plan shall be developed as public streets according to the size and general location shown on the Rexburg City Master Street Plan. The Planning and Zoning Commission has the authority to require streets in a PRD to connect with other public streets outside the PRD where such connection is necessary for good traffic circulation in the area. The City Master Street Plan will need to be strictly factored into the PRD street layout. Good PRD design will integrate curvilinear design and support a neighborhood look and feel. PRD developer will work with the public works director in scaling the curvature of the street to assure proper scale and form and to meet public works department issues and demands. All streets in a PRD shall be public streets constructed to City standards and specifications and dedicated to the City, except private streets and private drives may be permitted provided:

   i) They will not extend to or provide service to another property or parcel not included in the PRD unless there is no reasonable way to access existing parcels contiguous to a private street.

   ii) They will not provide access or travel between, or otherwise connect with two (2) or more public streets unless the street or driveway is designed to discourage through traffic.

   iii) They are designed by a qualified licensed civil engineer and constructed to City Standards and Specifications.

   iv) They are designated on the final plat as perpetual rights-of-way and public utility easements.

   v) All access points from public streets have "Private Street" or "Private Drive" signs installed.

f) The City Council may require private streets/drives to be wider than the minimum width if necessary to insure traffic and pedestrian safety and to reduce traffic congestion.

12) Off-site improvements: The City shall require off-site curb, gutter and sidewalk along street rights-of-way bordering the site when the proposed PRD impairs off-site safety or surface water drainage and there is a nexus between the required improvements and the governmental purpose provided the amount of the improvements are roughly proportional to the amount of the off-site impact caused by the PRD.

13) Irrigation Ditches: Developers shall pipe irrigation ditches within the PRD or along street rights-of-way adjacent to the PRD.

14) Storage Areas and Solid Waste Receptacles: All outside storage areas, except RV storage areas, and all solid waste receptacles which are not located within a building, shall be enclosed on at least three sides with materials that are compatible to the exterior of the main structures within the PRD.

15) Front Facades: The front of each attached dwelling shall have offsetting facades that conform to the multifamily building design standards if located in a multifamily zone. Developments must vary the façade in attached dwellings by providing multiple façade presentations.

16) Homeowner's Association: The applicant shall establish a home owner association for every PRD containing common or limited common property, with more than one owner for the purpose of maintaining the PRD. The homeowner's association, the individual property owners, and tenants shall maintain the PRD in accordance with the approved site plan.

17) Consolidation of Open Spaces: All PRDs with a density over nine units per acre shall include at least two (2) or more open spaces in the fifty percent (50%) landscaping requirement. An open space is a single, contiguous landscaped area that may also include recreational facilities such as playground equipment, basketball or tennis court, swimming pool, etc. The consolidated open space shall be at least two hundred twenty-five (225) square feet for each dwelling unit in the PRD. No more than twenty-five percent (25) of the total PRD green space requirement shall be counted within any required setback adjacent to a public street. Developers shall landscape the open space and design it as a recreational area for both children and adults. The open space shall be designed so that a horizontal rectangle inscribed within it has no dimension less than eighty feet (80'). The consolidated open space requirement shall not have more than fifty percent (50%) of the area with slopes more than ten percent (10%).

18) Storm Water Runoff Plan: All PRDs shall have a storm water runoff plan designed to accommodate a 25- year storm and a detention system with a maximum allowable discharge rate of sixty gallons per minutes per acre (60 g.p.m./ac)

19) Existing Homes: No PRD shall include an existing single family dwelling. If a single family dwelling exists on the property where a PRD is proposed, the applicant shall plat separately a lot containing the home. The plat shall comply with the requirements of the Rexburg Subdivision Ordinance.

20) Anti deterioration/Slum and Blight Prevention: PRD Developments are to be considered permanent for the useful life of the project as determined at the time of occupancy. There will be no conversions of a PRD into another type use, nor will the further subdividing of the development be allowed during the predetermined life of the PRD (at least 20 years). This restriction will contribute to the overall maintenance of the development and discourage the creation of slum and blighted properties.

21) PRD Developments must be in conformance with the Trails of Madison County Master Plan and have provisions for trail and pathway development as provided for in said Plan. (Ord. 917, §8, 2004).

16.07.090 Bonds

1) Purpose: Prior to the recording of any documents concerning an approved PRD and prior to the issuance of any building permit on ground covered by a PRD, the applicant shall post a bond with the City sufficient in amount to cover the cost of all public improvements required by ordinances, landscaping including sprinkling system, asphalt, curb, gutter, sidewalk, fencing, recreational facilities, piping of irrigation ditches, and any other item required as part of the approved site plan. The bond shall be a guarantee that the proper installation of all required improvements shall be completed within two (2) years of recordation of the approved final plat and that the improvements shall remain free form defects for six (6) months or until July 15 of the following year, whichever is longer. The City shall not release this bond until the City accepts the improvements.

2) Type: The bond shall be an irrevocable letter of credit, escrow bond cash bond or combination bond in favor of the City. The City reserves the right to reject any of the bond types if it has a rational basis for doing so. The bond shall be delivered to the Public Works Director.

3) Amount: The Public Works Director or his designee shall determine the amount of the required bond by estimating the cost of completing the required improvements. The amount of the bond shall be at least one hundred ten percent (110%) of the estimated costs of the required improvements.

4) The Developer shall not record the final plat until the developer of the PRD has tendered the bond and entered into an agreement with the City in which the developer agrees to install the improvements as required by this Article and agrees to indemnify and hold the City harmless from any claims, suits of judgments arising form the condition of property dedicated to the City, from the time that the property is dedicated to the City to the time when the improvements on the dedicated property are finally accepted by the City (including the passage of the warranty period).

5) An applicant may request an extension from the Public Works Director for the completion of improvements of up to two (2) years. The Public Works Director may grant an extension of one year if the applicant demonstrates good cause for not completing the improvements and demonstrates the present ability to complete the improvements.

6) If, for any reason, the bonds providing for the guarantee of improvements are insufficient to properly complete the improvements, the developer shall be personally liable to complete the improvements required by this Article.

7) The bonds required by this Section are for the sole benefit of the City. The bonds are not for the individual benefit of any citizen or identifiable class of citizens, including the owners or purchasers of lots or units within the PRD. The bonds are not for the purpose of ensuring payment of contractors, subcontractors or suppliers of labor or materials, and no contractors, subcontractors or suppliers of labor or materials shall have a cause of action against the City or the bond for providing labor or materials. (Ord. 917, §9, 2004).

16.07.100 Violations – Penalties

Any persons or persons violating the provisions of this Ordinance shall be guilty of a misdemeanor and shall be punishable in accordance with the provisions in the State Statute governing general misdemeanors, applicable at the time of the violation. In addition, all persons found guilty will be assessed costs. (Ord. 917, §10, 2004).

CHAPTER 16.08 SUBDIVISION REGULATIONS

*Note to Chapter 16.08: For statutory provisions related to the development of planning commissions by cities, see Idaho Code Ch. 50-11; for provisions concerning plats and vacations, see Idaho Code Ch. 50-13.

16.08.010 Ordinance adopted

That certain document dated June 6, 1984, known as the "Rexburg Subdivision Ordinance," is adopted as the subdivision ordinance of the city, authorized by Title 50, Chapter 13 and Title 67, Chapter 65 of the Idaho Code, as amended or subsequently codified and Article 12, Section 2 of the Idaho Constitution. The purpose of this chapter is to promote the public health, safety, and general welfare. (Ord. 658 §2, 1984).

16.08.020 Copies on file

There has been on file, and there shall hereafter be kept on file, in the office of the city clerk, three copies of the Rexburg subdivision ordinance, duly certified by the clerk, for use and examination by the public. (Ord. 658 §3, 1984).

CHAPTER 16.09 URBAN RENEWAL

16.09.010 Urban renewal agency

On or about the 6th day of November, 1991, by Council Resolution, the Council and Mayor of Rexburg created an urban renewal agency, the Rexburg Redevelopment Agency (the “Agency”), authorizing it to transaction business and exercise the powers granted by the Idaho Urban Renewal Law of 1965, being Idaho Code, Title 50, Chapter 20, as amended (the “Law”), and the Local Economic Development Act, the same being Idaho Code, Title 50, Chapter 29, as amended (the “Act”), upon making the findings of necessity required for creating said Urban Renewal Agency.910(part), 2003).

16.09.020 North Highway

For the City of Rexburg North Highway Urban Renewal Plan Ord. No. 728 and 815 go to www.rexburg.org or contact City Hall.

For the City of Rexburg North Highway Urban Renewal Plan, 2nd East expansion Ord. No. 950 go to www.rexburg.org or contact City Hall.

16.09.030 Washington School

For the City of Rexburg Washington School Urban Renewal Plan Ord. No. 794 go to www.rexburg.org or contact City Hall.

16.09.040 Downtown district redevelopment plan

For the City of Rexburg Downtown District Redevelopment Plan Ord. No. 910 go to www.rexburg.org or contact City Hall.

APPENDIX

APPENDIX 1 BUSINESS REGISTRATION FEES

ORD. NO.	CODE NO.	TYPE OF BUSINESS	FEE	APPROVAL
707	6.02.060	Peddler, Solicitor, or Itinerant Merchant (Include photo of applicant, see applicable appendix)	Each Day: $25.00 Each Month: $150.00 Each Quarter: $300.00	FC/HD
709	6.01.040	Amusement Center (more than 10 video games)	$40.00	
709	6.01.040	Auctioneer	$40.00	COP
709	6.01.040	Bakery	$20.00	COP
709	6.01.040	Bartender (New) (expires 1 yr. from date issued)	$20.00 $10.00 Renewal	COP&HD
709	6.01.040	Beer (On premises)	$200.00	COP
709	6.01.040	Beer (Off premises)	$50.00	CC/ST/MD
709	6.01.040	Wine (On premises)	$200.00	CC/ST/MD
709	6.01.040	Wine (Off premises)	$50.00	CC/ST/MD
709	6.01.040	Bowling Alley	$20.00	CC/ST/MD
709	6.01.040	Buses	$20.00	COP
709	6.01.040	Cafeteria	$20.00	COP
709	6.01.040	Candy Factory	$20.00	COP/HD
709	6.01.040	Carnival	$100.00	COP/HD
709	6.01.040	Catering Service	$20.00	COP/HD
709	6.01.040	Circus	$100.00	COP/HD
709	6.01.040	Concession	$20.00	COP/HD
709	6.01.040	Convenience Store	$20.00	COP/HD
709	6.01.040	Cooking School (sell food)	$20.00	COP/HD
709	6.01.040	Dairy	$2.50 per truck $20.00 min.	COP/HD
709	6.01.040	Dance Hall	$200.00	COP/HD
709	6.01.040	Delicatessen or Cafeteria	$20.00	COP/FC
709	6.01.040	Delivery Service	$20.00	COP/HD
709	6.01.040	Fireworks Stand, Safe & Sane 6/26 to7/26	$20.00 Registration & $50.00 per Stand	COP
709	6.01.040	Food Processing	$20.00	FC

ORD. NO.	CODE NO.	TYPE OF BUSINESS	FEE	APPROVAL
709	6.01.040	Fountain	$20.00	COP/HD
709	6.01.040	Fruit Stand	$20.00	COP/HD
709	6.01.040	Gas Station	$20.00	COP/HD
709	6.01.040	Grocery Store	$20.00	COP
709	6.01.040	Hotel/Motel	$1.00 per unit $20.00 min	COP/HD
709	6.01.040	Ice Cream Store	$20.00	COP
709	6.01.040	Junk Dealer	$50.00	COP
709	6.01.040	Kennel, Commercial (selling, breeding petition of 75% in 200 feet)	$50.00	COP
709	6.01.040	Kennel, Non-Commercial (over 2 dogs petition of 75% in 100 feet)	$25.00	COP
709	6.01.040	Meat Market.	$20.00	COP
709	6.01.040	Mechanic Repair Shops/Garages	$20.00	COP/HD
709	6.01.040	Mobile Home Court	$1.00 per space $20.00 min	COP
709	6.01.040	Motion Picture Theatre (per screen)	$20.00	COP
709	6.01.040	Moving and Storage Business	$20.00	COP
709	6.01.040	Nursing Home	$1.00 per bed $20.00 min	COP
709	6.01.040	Pawn Broker	$50.00	COP/HD
709	6.01.040	Photographer	$20.00	COP
932	6.05.140	Plumber (master)	$50.00 $35.00 Renewal	COP
932	6.05.160	Plumber (journeyman)	$20.00 $10.00 Renewal	
932	6.05.180	Plumber (apprentice)	$5.00	
709	6.01.040	Pool Hall	$20.00	
709	6.01.040	Private Patrolman ($1,000 bond)	$20.00	COP
709	6.01.040	Private Patrol Services ($2,000 bond)	$20.00	COP
709	6.01.040	Public Conveyance ($20.00 per vehicle)	$20.00	COP
709	6.01.040	Recreation, Physical Fitness, Sports Centers	$20.00	COP
709	6.01.040	Restaurant	$20.00	COP/HD
709	6.01.040	Retail Store or Business (not otherwise scheduled)	$20.00	COP/HD

ORD. NO.	CODE NO.	TYPE OF BUSINESS	FEE	APPROVAL
709	6.01.040	Rooming House and/or Apartment	$1.00 per unit $20.00 min	COP/HD
709	6.01.040	Street closure (house move)	$50.00	COP
709	6.01.040	Second Hand Store	$20.00	COP
709	6.01.040	Sign Company	$20.00	COP
709	6.01.040	Snack Bar	$20.00	COP
709	6.01.040	Spraying & Dipping	$20.00	COP
709	6.01.040	Tanning Parlors and Salons	$20.00	COP/HD
709	6.01.040	Taxi operator	$20.00	COP/HD
709	6.01.040	Taxi Company	$20.00 per cab	COP
911	6.10.050	Towing and Parking Enforcement	$250.00 $50 Renewal	COP

Investigation Fee 6.02.040: Except as provided above, at the time of filing an application, an investigation fee shall be paid to the city clerk as follows:

1. For investigation in county - $25.00
2. For investigation in state outside county - $50.00
3. For investigation outside state - $200.00

Expiration 6.04.070: All licenses expire December 31 of each year. Exception: Bartender permits expire 1 yr. from date issued. (Ord. 709).

APPENDIX 2 CUSTOMER SUPPORT SERVICES DEPARTMENT

ORD. NO.	ORD. NO.	FEE DESCRIPTION	FEES
810	12.06.030	Parade or public gathering permit	$25.00
		Road Closure Permit	$50.00
709	6.01.040	Business Licenses	$20.00 per year
709	6.01.040	Beer License (Off premises consumption)	$50.00 per year
709	6.01.040	Beer License (On premises consumption)	$200.00 per year
709	6.01.040	Wine License (Off premises consumption)	$50.00 per year
709	6.01.040	Wine License (On premises consumption)	$200.00 per year

APPENDIX 3 VIOLATIONS WITH RESPECTIVE FEES

FEES FOR ANIMAL CONTROL IN REXBURG					
ORD. NO.	CODE NO.	VIOLATION DESCRIPTION	1ST OFFENSE	2ND OFFENSE	EACH SUBSEQUENT
841	7.02.010	Failure to have license for dog	$50	$100.00	$200.00
841	7.02.020	Failure to change address for dog license within 30 days	$50	--	--
841	7.02.040	Failure to keep proper ID on dog	$50	$100.00	$100.00
841	7.02.060	Disturbing the peace (barking, yelping, whining, etc.)	$50	$100.00	$200.00
841	7.02.070	Running at large	$50	$100.00	$200.00
841	7.02.080	Running at large – exception – in designated areas	$50	--	--
841	7.04.110	Impoundment redemption	$5/per day	--	--
841	7.04.110	Impoundment redemption – failure	$100	--	--
841	7.04.140	Suspected rabies- quarantine 15 days or less	½ regular impound fee	--	--
841	7.04.140	Suspected rabies-not picked up, fees not paid	$100	--	--
841	7.04.160	Unclaimed animal	$100	--	--
841	7.02.110	Public disposition of animals without permit	$200	--	--
841	7.02.120	Abandonment of animals	$500	--	--
?	?	Micro Chip Fee	$5.00	--	--
?	?	Surrender Fee	$50.00	--	--
?	?	Surrender Fee outside of Madison County	$55.00	--	--
?	?	Surrender Fee Madison County	$35.00	--	--

HEALTH AND SAFETY FINES					
ORD. NO.	CODE NO.	VIOLATION DESCRIPTION	1ST OFFENSE	2ND OFFENSE	EACH SUBSEQUENT
867	8.09.070	Jaywalking	$25	$25	$25
931	8.10.040	Smoking in a Bowling Alley	Not to exceed $100	No less than $100	No less than $250
PARKING FINES					
ORD. NO.	CODE NO.	VIOLATION DESCRIPTION	1ST OFFENSE	2ND OFFENSE	EACH SUBSEQUENT
704	10.09.560	Overtime parking	$5.00	$5.00	$5.00
704	10.09.560	Parking in two stalls	$5.00	$5.00	$5.00
704	10.09.560	Parking in loading zone	$5.00	$5.00	$5.00
704	10.09.560	Blocking an alley	$5.00	$5.00	$5.00
704	10.09.560	Parking in crosswalk	$5.00	$5.00	$5.00
704	10.09.560	Parking on wrong side of street	$5.00	$5.00	$5.00
704	10.09.560	Parking in driveway	$5.00	$5.00	$5.00
704	10.09.560	2 AM to 7 AM No Parking	$5.00	$5.00	$5.00
704	10.09.560	Blocking fire hydrant	$10.00	$10.00	$10.00
704	10.09.560	Fire lane	$10.00	$10.00	$10.00
704	10.09.560	Handicap zone	$10.00	$10.00	$10.00
704	10.09.560	Yellow zone	$10.00	$10.00	$10.00
STOPPING, STANDING, PARKING					
ORD. NO.	CODE NO.	VIOLATION DESCRIPTION	1ST OFFENSE	2ND OFFENSE	EACH SUBSEQUENT
752	10.09.630	Standing, sitting, parking or otherwise obstructing the use of public or private property when such property has been prominently posted	$25.00	$50.00	$75.00
NUISANCE ENGINE BRAKES					
ORD. NO.	CODE NO.	VIOLATION DESCRIPTION	1ST OFFENSE	2ND OFFENSE	EACH SUBSEQUENT
906	9.07.040	Unlawful Use of Engine Brakes	$50.00	$50.00	$50.00

APPENDIX 4 PUBLIC WORKS/EMERGENCY SERVICES DEPARTMENTS

WASTEWATER			
ORD. NO.	CODE CHAPTER	FEE DESCRIPTION	FEE
936	13.03.795	Treating hauled wastes	$15.00 per 1000 gallons
936	13.03.795	BOD - Excessive Strength Discharges	$0.36 per pound
936	13.03.795	TSS – Excessive Strength Discharges	$0.18 per pound
GARBAGE COLLECTION AND DISPOSAL			
ORD. NO.	CODE CHAPTER	FEE DESCRIPTION	FEE
765	8.02.280	Blocking access to garbage container	$20.00 (minimum fee for return call)
PRIVATE USE OF FIRE HYDRANTS			
ORD. NO.	CODE CHAPTER	FEE DESCRIPTION	FEE
935	13.01.120	Cost to use a fire hydrant (Minimum Charge of $10.00)	$5.00 per 1,000 gallons
UNIFORM FIRE CODE			
ORD. NO.	CODE CHAPTER	FEE DESCRIPTION	FEE
933	15.07.020 §3(a)	Operational permit	$50.00
933	15.07.020 §3(b)	Construction permit	$50.00
933	15.07.020 §9	Reinspection Fees	$50.00
933	15.07.020 §12	Safety System Certification	$100.00 Annually
933	15.07.020 §15	Building Plan Review Fees	$50.00 per 5,000 square feet or portion thereof, up to a max. of $500.
933	15.07.020 §15	Fire Alarm Plan Review Fees	$50.00 per 100 devices or portion thereof, up to a maximum of $200.
933	15.07.020 §15	Fire Sprinkler System Fees	$100.00
933	15.07.020 §15	Fire Pump Fees	$100.00
933	15.07.020 §25	False Alarm Fees	$200.00 for each false alarm after 3 times in a six month period
933	15.07.020 §25	False Alarm from failure to notify the Fire Department when working on or testing fire protection system	$75.00

APPENDIX 5 LOCAL IMPROVEMENT DISTRICTS

LOCAL IMPROVEMENT DISTRICT	CORRESPONDING ORDINANCES	CORRESPONDING RESOLUTIONS
1	205, 244, 253, 264	
2	146, 261, 266,	
3	153, 301,	
4	369, 372, 374	
5	176, 417, 423, 424	
6	185	
7	198, 200	
8	202	
9	206, 215, 232, 233	
10	213, 218, 219, 233	
11	224, 235, 236, 242	
12	250, 256, 257	
13	303,	
14	389, 394, 396,	
15	391, 395, 397,	
16	438, 439, 440,	
17	468, 479	
18	498, 501, 503	
19	508, 509, 510	
20	539, 543, 549, 553,	
21		
22	566, 570, 582,	
23	598, 603,	
24	626, 631, 646,	
25	632, 633, 644,	
26	691, 696, 698,	
27	723, 738, 740,	1991-6,
28	779,	
29	793, 799	
30	796, 813,	
31	819, 844, 850	
32	870, 913,	2002-03, 2003-11

33	889, 914, 920, 921	2003-12
36	980	2007-01
37	981	2007-02

APPENDIX 6 SIGN CODE SCHEDULE "B" CBD, HBD, INDUSTRIAL & AIRPORT

SECTION I: FREE STANDING, ON PREMISE SIGNS (BASIC SIGN SIZES AND SIGN SIZE LOCATION FORMULAS)

1) **Maximum sign size = 200 sq. ft.** Maximum sign height to top of sign = 24ft. (*or building height* (*with conditional use permit).*

2) **An 80 sq. ft. sign** allowed for any single property up to 50,000 sq. ft. in lot size.

3) **For properties larger than 50,000 sq. ft. in area**, total allowable sign area (sq. ft.) would be increased by 0.0016 sq. ft. of sign for each sq. ft. of property in excess of 50,000 sq. ft.

EXAMPLE 1:

Lot Area = 125,386 sq. ft.
First 50,000 sq. ft. ---------- 80 sq. ft. of signage
Next 75,386 sq. ft. x 0.0016 sq. ft. sign/ sq. ft. prop.--121 sq. ft. of signage
Total allowable Sign Area------201 sq. ft.

This would allow one 200 sq. ft. sign OR one 100 sq. ft. sign + one 101 sq. ft. sign or some other similar combination of signs whose total area would not exceed 201 sq. ft.

EXAMPLE 2:

Lot area = 245,678 sq. ft.
First 50,000 sq. ft. ---------- 80 sq. ft. of signage
Next 195, 678 sq. ft. x 0.0016 sq. ft. sign/ sq.ft. prop. -- 313 sq. ft. of signage.
Total allowable Sign Area ---------- 393 sq. ft.

This would allow one 200 sq. ft. sign, a 100 sq. ft. sign and a 93 sq. ft. sign or any other similar combinations of sign sizes whose total area would not exceed 393 sq. ft.

EXAMPLE 3:

Lot area = 845,979 sq. ft.
First 50,000 sq. ft. ---------- 80 sq. ft. of signage
Next 795,979 sq. ft. x 0.0016 sq. ft. sign/ sq.ft.prop.—1,274 sq. ft. of signage
Total allowable Signage----------1,354 sq. ft.

This would allow for six 200 sq. ft. signs and one 154 sq. ft. sign.

4) **Clear distance between signs:**

$$\frac{\text{Area of Sign 1 + Area of Sign 2}}{\text{Distance between Sign 1 \& sign 2}} \text{ must be equal to or less than 2.0}$$

EXAMPLE: $\frac{\text{200 sq. ft. (Area Sign 1) + 200 sq. ft. (Area Sign 2)}}{\text{200 ft. (Distance between Sign 1 \& Sign 2}} = 2.0$
(permissible)

Therefore 2 signs, each having the maximum size of 200 sq. ft. each, would have to be 200 ft. apart or greater.

EXAMPLE: $\frac{\text{200 sq. ft. (Area Sign 1) + 100 sq. ft. (Area Sign 2)}}{\text{155 ft. (Clear distance between Sign 1 \& Sign 2}} = 1.94$

1.94 is permissible

To find minimum distance between signs divide by 2.0

EXAMPLE: $\frac{\text{200 sq. ft. (Area Sign 1) + 100 (Area of Sign 2)}}{2.0}$ = 150 ft

Clear distance between signs need to be 150 ft or greater

EXAMPLE: $\frac{\text{150 sq. ft. (Area of Sign 1) + 125 (Area of Sign 2)}}{\text{109 ft. (Clear distance between Sign 1 \& Sign 2)}}$ = 2.523

2.523 is not permissible therefore 109 ft. is too small. To find the minimum clear distance you would have to do the following:

$\frac{\text{(150 sq. ft. + 125 sq. ft.)}}{2.0}$ = 137.5 ft

therefore 137.5 ft. or greater is permissible

EXAMPLE: $\frac{\text{80 sq. ft. (Area of Sign 1) + 80 sq. ft. (Area of Sign 2)}}{\text{85 ft. (Clear distance between Sign 1 \& Sign 2)}}$ = 1.88

1.88 is permissible

5) **Distance from property lines**. $\frac{\text{Sign Area}}{10}$ =

Distance from sign to nearest adjacent property line.
(Not street right-of-way (ROW) line.)

EXAMPLE: $\frac{\text{200 sq. ft. (Sign Area)}}{10}$ = 20 ft.

20 ft = distance from sign to nearest adjacent property line

EXAMPLE: $\frac{\text{80 sq. ft. (Sign Area)}}{10}$ = 8 ft

8 ft = distance from sign to nearest adjacent property line

The distance between the aforementioned sign examples would require the signs to be:

$\frac{\text{200 sq. ft. + 80 sq. ft.}}{2}$ = 140 ft. apart. Factor of 2 or less

6) **Any banners on property** other than wall banners must meet and are included as part of freestanding sign area unless considered temporary and approved by planning and zoning administrator. In general temporary banners over 32 sq. ft. will be considered for a Conditional Use Permit unless the planning and zoning administrator deems otherwise due to such factors as very limited use for such events as the Folk Dance Festival or other important activities important to the citizens of the city for limited periods of time.

SECTION II: ALLOWABLE SIGN AREAS FOR WALL SIGNS (INCLUDING PROTRUDING SIGNS AND ROOF SIGNS)

1) **Maximum Area of Wall Sign Allowed = 10%** of the area of the building wall for walls located within 0 ft. to 100 ft. from the street ROW (right-of-way) line.

2) **Maximum Area of Wall Sign Allowed = 12%** of the area of the building wall for walls located within 100 ft. to 200 ft. from the street ROW (right-of-way) line.
3) **Maximum Area of Wall Sign Allowed = 14%** of the area of the building wall for walls located more than 200 ft. from the street ROW (right-of-way) line.
4) **Wall banners up for 60 days or less are considered temporary.** These banners must be logged and recorded in at the City of Rexburg to assure 60 day limits. These banners may be up with permanent wall signs as long as the coverage does not exceed 20% of wall. The only exception to this is by going through the Planning and Zoning Administrator. This 20% coverage is the total of the permanent and temporary signs combined. Any banners up over 60 days are considered permanent. These banners will be covered as aforementioned in maximum area (*depending on distance from right-of-way (ROW)* of wall signs and must have a sign permit. The only exception to this is through obtaining permission from the Planning and Zoning Administrator in which the Planning and Zoning Administrator will determine if a Conditional Use Permit is needed for an extended period of time or it has turned into a sign that is not for temporary use and must be removed.
SECTION III: ATTACHMENTS – 3 PAGES (SCHEDULE "B": ATTACHMENTS SHOWING ALLOWABLE SIGN SIZE AND SIGN PERMIT CONDITIONS BY ZONE)

APPENDIX 7A STREET DEVELOPMENT IMPACT FEE REPORT

EXECUTIVE SUMMARY

The City of Rexburg Development Impact Fee Program provides the necessary detail to support a development impact fee for the identified facilities in conformance with Idaho State Statute Title 67, Chapter 82 Development Impact Fees. This enabling legislation allows for impact fees to be collected and sets parameters to ensure that those fees are both fair and equitable. When implemented, these fees will provide a funding mechanism by which future development will pay an equitable share of the costs associated with future public facility construction and/or improvements. The *City of Rexburg Development Impact Fee Program* and *Development Impact Fee Ordinance* comply with Idaho State Statutes. The format of this report is such that it is comprehensible without sacrificing the detail necessary to withstand close scrutiny, either legal or otherwise.

The *City of Rexburg Development Impact Fee Program* identifies build-out projections for the City of Rexburg and the Area of Impact based on the Madison County Transportation Plan and Rexburg Traffic Analysis prepared by Keller Associates. Build-out projections were used to determine the impacts to public facilities created by the projected future development. The costs required for future facility improvements were then determined and utilized in this report as methodology components to provide a rational nexus between the public facility improvement needs and the impact fee to be paid by future development.

Two definitions will be helpful in understanding this document:

Build Out Projections – the residential forecast of growth within the Study Area from the present time until all available land has been developed to the extent realistically permitted by the terrain. Build out projections are not time dependent.

Performance Standard – A standard applied to a facility that ensures that adequate public facilities are provided at a desirable level. This standard can be population based or square footage based depending on the facility.

The findings of this study can be summarized as follows:

BUILD OUT PROJECTIONS

Dwelling Units	
Total Existing Dwelling Units	7,400 Units
Total Future Dwelling Units	14,420 Units
Total Build Out Dwelling Units	21,820 Units
Non-Residential Sq. Footage	
Existing Square Feet	6,956,005 Square Feet
Future Square Feet	7,128,161 Square Feet
Build Out Square Feet	14,084,166 Square Feet
Population	
Total Existing Population	27,477 Persons
Total Future Population	54,361 Persons
Total Build Out Population	81,838 Persons

FACILITY ANALYSIS	
Circulation	
Level of Service Standard	LOS C
Estimated Costs to be funded by Impact Fees	$21,999,450.00
Fee per Single Family Dwelling Unit	$804.25
Fee per Multi-Family Dwelling Unit	$643.40
Fee per Average Daily Trip (Non-Residential)	$16.80

APPENDIX 7B CHAPTER 1 - INTRODUCTION AND PURPOSE

CHAPTER 1: INTRODUCTION AND PURPOSE
The City of Rexburg, an established community located in eastern Idaho, is anticipating consistent and sustained growth in coming decades. As this growth occurs, an increasing population will place heavier demands upon city services and infrastructure. To maintain desirable levels of service (LOS), and to ensure that future development pays an equitable portion of the cost for construction of future public facilities, the City of Rexburg elected to enact a development impact fee program to serve as its primary financial mechanism in paying for public facility improvements made necessary by new development.
Specifically, this report identifies appropriate impact fees for the following (public) facilities: Circulation Facilities
The Idaho Development Impact Fee Act is the state enabling legislation that allows for impact fees to be collected by a local jurisdiction and sets the parameters to ensure that the fees are fair and equitable. The required contents of the Development Impact Fee Report are outlined in Section 67-8206(2) of the Idaho Development Impact Fee Act. This act specifies that a Capital Improvements Plan (CIP) must be provided to allow for the collection of impact fees. The CIP must include the following information: a) A general description of existing facilities b) A commitment by the City to cure existing deficiencies c) An analysis of capacity and current level of use d) A description of land use assumptions e) An inventory of existing facilities f) A table establishing specific levels of use or consumption by service unit g) A description of all improvements and costs h) The total number of service units attributed to new development i) The projected demand for improvements j) Identification of funding sources k) A time schedule for the commencement and completion of improvements

CHAPTER 1: FACILITIES ANALYSIS

The *first step* of this study was to inventory land uses and existing facilities. The *next step* in the facilities analysis was to obtain build out projections. These projections, which provided an essential basis for the rest of the process, are explained in the Build Out Projections Chapter. *Step three* in the facilities analysis process was to establish Performance Standards for the facilities being studied. These standards indicate a measurement of the acceptable or appropriate level of service that the City intends to provide to its citizens. Once the performance standards were established, existing facility deficiencies, if any, were identified along with the projected need for additional facilities at build out. The *fourth step* in preparing the facilities analysis was to make cost estimates for the new or expanded facilities that will be needed at build out.

CHAPTER 1: DEVELOPMENT IMPACT FEE

The City Council has determined that development impact fees should be a primary funding mechanism to finance future public facilities improvements needed to serve new development. The facilities analysis provides the necessary information for the development impact fee program for the City of Rexburg. There are provisions in the Idaho Development Impact Fee Act that allow for the modification and updating of the development impact fees. Additionally, the Act (Section 67-8208(2)) requires that all Capital Improvements Plans be updated every five years.

Based on the research conducted, the analysis of impacts to facilities and the costs associated with those impacts, a proportionate share determination must be made to ensure that the resulting development impact fee reasonably relates to the service demands and needs for future development. The proportionate share determination, in accordance with Idaho Code Section 67-8207 specifies a number of "considerations" that must be made by the City to ensure that the development impact is "based on a reasonable and fair formula or method…" Explanations for the proportionate share determinations are provided at the end of each chapter. The final result of the research, discussions, analysis, and re-analysis is a development impact fee study and ordinance that reflect both professional expertise and local experience.

The information provided in this report is intended to be as accurate as possible, and able to withstand close scrutiny, either legal or otherwise. Further, it is the intention of this report to be easily comprehended, without sacrificing necessary detail.

APPENDIX 7C CHAPTER 2: BUILD OUT ANALYSIS

CHAPTER 2: BUILD OUT ANALYSIS

Build out projections forecast residential and nonresidential growth within an area from existing conditions to the point at which all available land has been developed. Build out projections are not time dependent, meaning there is no projected build out year. The time it will take for a community to reach build out will vary depending on many factors, including the economic market in the region. Therefore, this analysis does not attempt to predict when build out will occur, but rather provides a snapshot of the area at build out. The following defines the Study Area and then discusses the methodology, assumptions and resulting build out projections for both residential and nonresidential development.

1) Study Area

The Study Area for this Development Impact Fee Program is defined as the City of Rexburg's Area of Impact, as identified in Exhibit 1 on page 7. A city's Area of Impact is a planning tool utilized to identify areas that are likely to be annexed into the city in the future. It is appropriate to include the annexation areas into the Development Impact Fee Program since this area will contribute to future demand on city services.

Exhibit 1: Development Impact Fee Study Area

2) Residential Build Out Projections

Residential build out projections predict future residential growth. A build out model was developed within the Rexburg Impact Fee Traffic Analysis to assess the amount of existing and future dwelling units in the Study Area. The analysis utilized the Madison County Transportation Plan and employment projections corrected for the Study Area boundaries to predict the build out dwelling units. A more detailed discussion of this methodology can be found in Appendix A.

(a) Existing Residential Development

Residential development has been divided into two main categories: single family and multi-family housing. The multi-family category is broken down further to reflect the differences in student dwelling units, with subcategories designated as "singles" and "married/non-singles". Based on the total multi-family units from the Keller study, the breakdown of MF Singles units and MF Non-singles units was derived from information from BYU Idaho, provided by City of Rexburg, as to the ratio of married/non-single to single students and the related dwelling units. The details of this information and methodology are explained further in Appendix B.

Based on the number of existing dwelling units, the existing population is extrapolated based on persons per dwelling unit factors for single family, multi-family singles, and multi-family non-singles. The persons per dwelling unit factors are 3.8[1], 5.6[2], and 2.3[3], respectively. Below is a summary of existing residential development and population projections.

Table 1: Existing Dwelling Units and Population

Housing Type	Existing Dwelling Units	Existing Population
Single Family (SF)	**3,060**	**11,628**
Multi-Family (MF)		
MF- Singles	1,778	9,957
MF- Non-singles	2,562	5,893
MF Subtotal	**4,340**	**15,849**
Total	**7,400**	**27,477**

Persons per dwelling unit for single family is based on the multi-family factors and an overall average of 3.71 per the 2000 Census.

[2]The persons per dwelling unit factors for multi-family were provided by City of Rexburg/BYU Idaho.

[3]Ibid.

(b) Future Residential Projections

The number of future dwelling units includes all residential units that will develop between now and build out. The future residential development is projected to add 14,420 dwelling units. The same methodology and assumptions discussed above in the existing residential development were used to determine the breakdown of future multi-family units, and the future population. The following table provides a summary of future residential and population projections:

Table Table 2: Future Dwelling Unit and Population Projections

Housing Type	Future Dwelling Units	Future Population
Single Family	**11,470**	**43,586**
Multi-Family		
MF- Singles	1,209	6,770
MF- Non-singles	1,741	4,004
MF Subtotal	**2,950**	**10,775**
Total	**14,420**	**54,361**

(c) Build Out Residential Projections

The build out residential projections are determined by adding the existing development and the future development projections. As a result, the total number of residential dwelling units is projected to reach 21,820 at build out. Based on existing and future population projections, the build out population in the Study Area is expected to be approximately 81,838 people. The following table summarizes the build out residential development in the study area:

Table 3: Build Out Residential Summary

Housing Type	Build Out Dwelling Units	Build Out Population
Single Family	**14,530**	**55,214**
Multi-Family		
MF- Singles	2,987	16,727
MF Non-singles	4,303	9,897
MF Subtotal	**7,290**	**26,624**
Total	**21,820**	**81,838**

3) Non-Residential Build Out Projections

Non-residential build out projections predict the future non-residential growth based on the Rexburg Comprehensive Plan land use designations and an average coverage factor. The coverage factor for non-residential development was determined to be 30%. This percentage was determined using aerial photographs to compare the portion of a parcel covered by a building to the size of the entire parcel. Below is a summary of existing development and future projections for non-residential development.

(a) Existing Non-Residential Development

There is a total of 6,956,005 square feet of existing non-residential development within the Study Area. Non-residential development exists both in the city limits and the Area of Impact, yet the majority currently exists within the city limits.

(b) Future Non-Residential Projections

Projections show that a total of 7,128,161 square feet of non-residential development is expected to occur in the Study Area. The majority of the future non-residential development is expected to occur within the Area of Impact.

(c) Build Out Non-Residential Projections

The resulting build out square footage for non-residential development is anticipated to reach 14,084,166 square feet within the Study Area. The following table summarizes the existing, future, and build out non-residential development in the study area:

Table Table 4: Non-Residential Build Out Summary

Existing Square Footage	Future Square Footage	Build Out Square Footage
6,956,005	7,128,161	14,084,166

APPENDIX 7D CHAPTER 3: CIRCULATION

CHAPTER 3: CIRCULATION

The circulation analysis is based on information from the Rexburg Traffic Analysis prepared by Keller Associates dated March 2006. The traffic study analyzes the existing level of service in the City and identifies future circulation needs based on projections of future residential and nonresidential development in the study area.

1) Level Of Service

Traffic operations are evaluated based on the level of service (LOS) methodologies of the Highway Capacity Manual (HCM). The HCM is a nationally recognized and locally accepted method of measuring traffic flow and congestion. The level of service (LOS) as defined by the Highway Capacity Manual is "a qualitative measure describing operational conditions within a traffic stream, generally in terms of such factors as speed, travel time, freedom to maneuver, traffic interruptions, comfort and convenience and safety." Criteria range from LOS A, indicating free-flow conditions with minimal vehicle delays to LOS F, indicating extreme congestion with significant delays. The level of service standard for this study and impact fee is LOS C.

The following provides a general definition for each level of service:

a) LOS A: Very low delay; most vehicles arrive during the green time; most vehicles do not stop at all.

b) LOS B: Low delay; more vehicles stop than for LOS A causing higher delays; more vehicles stop but all vehicles clear the traffic signal.

c) LOS C: Average delay; vehicles may wait longer due to longer cycle lengths; number of vehicles stopped is significant, although many pass through the intersection without stopping.

d) LOS D: Significant delay; congestion becomes more noticeable; long cycle lengths; many vehicles stop and the portion of vehicles not stopping declines; some vehicles may not clear intersection.

e) LOS E: Heavy delay; congestion is apparent; longer cycle lengths; almost all vehicles stop; may take waiting through at least one cycle to clear intersection.

f) LOS F: Extreme delay; very long cycle lengths; all vehicles stop; takes at least two or more cycles to clear intersection.

2) Facility Analysis

Circulation is a key component to the development of a city. Recent growth in the City and the surrounding areas has placed pressures on the existing infrastructure. As previously mentioned, a traffic analysis was prepared by Keller Associates to assess existing level of service in the study area and identify any existing deficiencies and future improvements to the circulation system. The following is a summary of the methodology and facility analysis from the Keller study. The complete analysis can be found in Appendix A.

Intersections of roadways on the primary circulation system were evaluated to assess existing deficiencies and future improvements. A three step approach was used for the intersection evaluations (Rexburg Traffic Analysis, Keller Associates (2006)).

A "Screening Level" evaluation was made to determine which intersections were likely to require existing or future improvements. This analysis is based on a presumption of traffic signal control of the intersections

Those intersections identified as having potential deficiencies were subject to further evaluation using normal intersection capacity analysis techniques. These analyses verified the need for intersection signalization and defined the number of approach lanes necessary.

As a secondary check, higher volume intersections not identified as needing signalization or additional approach lanes were further evaluated to determine if acceptable operation was possible with stop sign control.

a) **Adequacy of Existing Circulation Infrastructure**

As a result of the evaluation discussed above the following existing deficiencies were identified:

Main Street and 2nd East

2nd South and 2nd West

2nd South and 2nd East

The specific project recommendations to correct these deficiencies are discussed in the Keller Traffic Analysis located in Appendix A. Impact fees cannot pay for existing deficiencies, as a result these project improvements will need to be funded by another source per Idaho statutes. The City of Rexburg has identified other funding sources for the existing deficiencies. The following table provides a cost estimate to correct the existing deficiencies.

Table 5: Existing Deficiencies

Existing Deficiencies	
MAIN AND 2ND EAST Add second southbound right turn lane Add second northbound through lane Upgrade signal	$1,465,000
2ND SOUTH AND 2ND WEST Add second westbound through lane Add second northbound through lane Upgrade signal	$37,000
2ND SOUTH AND 2ND EAST Add traffic signal Restripe north and south approaches for L-TR operation	$381,000
TOTAL COST	**$1,883,000**

b) **Future Demand for Circulation Infrastructure**

The circulation analysis resulted in the identification of project improvements needed to sustain acceptable levels of service through build out. A number of the intersections identified through the analysis are located along State Highway 33. As a result, the Idaho Transportation Department would be responsible, but Rexburg may be required to pay its fair share. A complete list of improvements can be found in the Traffic Analysis in Appendix A. The list of project improvements to be covered by this impact fee include:

i) 2nd East from 3rd South to 1st North

ii) Add Turn Lane at 2nd S / 2nd E

iii) Restripe Main and 2nd W

iv) Widen 12th West

v) Widen Salem Highway

vi) Widen 2000 N

vii) East Parkway

viii) 2nd West – 1st North Alignment (all improvements between Main St and end of 2nd W-1st N curve)

ix) Relocate Pioneer/Main Intersection

x) Rexburg 2nd E and 7th S

xi) 7th South from 2nd West to Old Yellowstone Hwy (City Council recommended inclusion of this project improvement and cost was estimated by City Engineer.)

2) CIRCULATION FACILITY COSTS

Development impact fees can only pay for infrastructure and improvements related to future growth, not existing deficiencies. The circulation improvements included within this analysis do not include those improvements that would typically be provided by a development as part of its normal subdivision improvements. Usually, these are improvements for one half the width of streets that the development has frontage on. This typically includes half street paving, curbs, gutters, sidewalks, landscaping and streetlights. The reason these improvements are not included in this analysis is that, under State law, developments must receive a credit for any improvements that they provide that is also an improvement that would be paid by impact fees. This will relieve the city of the burden of processing numerous credit requests and keep a distinction between subdivision improvements and improvements that have a wider public benefit.

Appendix D contains the list of assumptions used in determining what is included in the costs for street construction that will be eligible for funding through the impact fees. Table 6 provides a description of the project improvements and costs.

Table 6: Circulation Facility Costs

PROJECT	PROJECT ELEMENTS/DESCRIPTION	COST
2nd East from 3rd South To 1st North	Widen 18' from 3rd S to 1st S Widen 5' from 1st S to Main Widen 12' from 1st N to 2nd N Replace storm sewer, curb & gutter, sidewalk Reconstruct full width pavement Traffic signal at 1st N & 2nd E	$2,590,000
Add Turn Lane at 2nd S / 2nd E	Widen pavement 12' x 350' Replace storm sewer, curb & gutter, sidewalk (one side)	$238,000
Restripe Main/Restripe 2nd W	Restripe Main/Restripe 2nd W Signal	$164,000
Widen 12th West	Add storm sewer, curb & gutter, sidewalk (both sides) Replace 130' x 24' bridge with new 130' x 56' bridge Replace 4,600' irrigation canal with 72" pipe Lighting for full length Reconstruct full length	$5,620,000
Widen Salem Highway	Add storm sewer, curb & gutter, sidewalk (both sides) Replace railroad crossing Includes 2 signals (SH 33 and 2000 N) Replace 6350' irrigation canal with 72" pipe Reconstruct 3900' of road Widen and overlay 4000' of road Add northbound right turn lane at	$2,870,000

CHAPTER 3: CIRCULATION		
Widen 2000 N	Add storm sewer, curb & gutter, sidewalk (both sides) Replace railroad crossing Reconstruct full length Lighting	$1,794,450
East Parkway	New roadway with curb & gutter, sidewalks, storm sewer Lighting Teton River bridge (180' x 72') Irrigation canal bridge (90' x 72')	$17,061,000
2nd East from 3rd South To 1st North	Widen 18' from 3rd S to 1st S Widen 5' from 1st S to Main Widen 12' from 1st N to 2nd N Replace storm sewer, curb & gutter, sidewalk Reconstruct full width pavement Traffic signal at 1st N & 2nd E	$2,590,000
2nd West - 1st North Alignment (all improvements between Main St and end of 2nd W-1st N curve)	Widen 12' Reconstruct 63' x 1350' Replace Railroad Crossing Replace storm sewer, curb & gutter, sidewalks	$2,508,000
Relocate Pioneer/Main Intersection	New roadway with curb & gutter, sidewalks, storm sewer Lighting New traffic signal Box culvert at canal	$1,356,000
Rexburg 2nd E & 7th S	New roadway with curb & gutter, sidewalks, storm sewer Lighting New traffic signal	$1,298,000
7th South from 2W to Old Yellowstone Hwy	Widen roadway from 2 to 5 lanes	$500,000
TOTAL		**$35,999,450**

a) FEE CALCULATION

i) Impact of Future Development

After the costs for circulation facilities have been identified, the next step in calculating the fee is to quantify the impacts of future development.

The fee calculation applies to both residential and non-residential development. The numbers of trips generated by land use are used to determine the impacts of development on roadways. Provided below are the trip generation rates for non-residential and residential development used in this circulation analysis:

Table 5: Trip Generation Rates by Land Uses

Land Use	Trip Generation Rate
Single Family	10 trips/du
Multi-Family	8 trips/du
Commercial	120 trips/ 1000 sq.ft.
Industrial	12 trips/ 1000 sq.ft.

These trips are representative averages used nationally to estimate the impact of development on roadways. Specifically, the commercial standard is based on the trips for a Neighborhood Shopping Center. The trips for industrial land uses is generated from an average of Industrial and combined Industrial/Commercial land use. The multi-family trip generation is an average for all types multi-family dwelling units.

The total impact of future development on roadways is calculated by multiplying the trips for each land use category by the future residential dwelling units and non-residential square footage in the study area.

ii) Credit for Non-Residential Development

An adjustment must be made to account for the double counting of commercial and residential trips. For example, round trips from a dwelling unit may include a trip to a commercial destination within the City. This same trip, however, is included in the trips for the commercial land use. To adjust for double counting of trips, this analysis assigns a 40% discount to non-residential development. As a result, this discount factor provides a more accurate trip generation measurement.

To make this adjustment, the percentage of traffic impact is calculated for each land use. The percentage is then multiplied by the total cost for facilities to identify the proportional cost for each land use. The fee credit, however, reduces this cost to non-residential development by 40% and transfers the cost proportionally to residential development. If the cost was reduced by 40% and not transferred to residential development, the fee would be insufficient and there would be a shortage of funds collected by the City for future improvements.

The transfer of the 40% credit is reapportioned to residential development based on the percentage of single family and multi-family units of residential development within the study area. The transfer of credit for non-residential development to residential development results in a revised cost for each of the four land use categories: SFD, MFD, commercial and industrial land use.

iii) Cost per land use

The last step in the fee calculation is to divide the cost per land use by the future trips projected for the four land uses. Due to the credit transfer, the result is a difference in cost per trip between residential and non-residential land uses.

Since the non-residential fee is based on a per trip generation rate and different non-residential land uses have different trip generation rates, all non-residential land uses will not have the same fee. Unfortunately, this tends to complicate the collection of circulation impact fees because it is difficult to assign a trip generation rate for all the various land uses.

The generation rates should be based on either the ITE standards or on another set of generation tables which more closely resemble conditions in Rexburg. A simplified trip generation rate table is provided in Appendix C. This table should be consulted when determining development impact fees for non-residential uses. However, for uses not listed, the Public Works Director shall make the decision regarding the appropriate traffic generation rate. This determination shall be based upon ITE standards or traffic reports submitted with the proposed non-residential use.

A detailed breakdown of circulation impact fee calculations is shown on Table 8.

Table 6: Circulation Fee Calculation

STEP 1:	**Identify Total Cost**							
Total Cost	$35,999,450.00							
Other Funds	$14,000,000.00							
	$21,999,450.00							
STEP 2:	**Proportional Share of Future Traffic Generation**							
Single Family Detached (SFD)	11,470	DUs	x	10	Trips/DU	=	114,700	Trips
Multi-family (MF)	2,950	DUs	x	8	Trips/DU	=	23,600	Trips
Commercial (COMM)	5,203,558	Sq. Ft.	x	120	Trips/1000 sf	=	624,427	Trips
Industrial (IND)	1,924,603	Sq. Ft.	x	12	Trips/1000 sf	=	23,095	Trips
							785,822	Trips
STEP 3:	**Percent of Total Trips/Proportional Cost**							
SFD	114,700	Trips	14.6%	=	$3,211,078.91			
MF	23,600	Trips	3.0%	=	$660,692.78			
COMM	624,427	Trips	79.5%	=	$17,481,116.47			
IND	23,095	Trips	2.9%	=	$646,561.84			
			100.0%		$21,999,450.00			

CHAPTER 3: CIRCULATION								
STEP 4:	**Commercial/Industrial Credit and Reapportionment**							
COMM	$17,481,116.47	x	40%	=	$6,992,446.59			
IND	$646,561.84	x	40%	=	$258,624.74			
					$7,251,071.32			
SFD Trips	114,700	Trips	82.9%	=	$6,013,722.93			
MF Trips	23,600	Trips	17.1%	=	$1,237,348.40			
	138,300				$7,251,071.32			
STEP 5:	**Revised Costs based on Reapportionment**							
SFD	$3,211,078.91		+		$6,013,722.93	=	$9,224,801.83	
MF	$660,692.78		+		$1,237,348.40	=	$1,898,041.18	
COMM	$17,481,116.47		-		$6,992,446.59	=	$10,488,669.88	
IND	$646,561.84		-		$258,624.74	=	$387,937.11	
							$21,999,450.00	
STEP 6:	**Cost per Trip**							
SFD	$9,224,801.83		/		114,700	Trips	$80.43	/ Trip
MF	$1,898,041.18		/		23,600	Trips	$80.43	/ Trip
COMM	$10,488,669.88		/		624,427	Trips	$16.80	/ Trip
IND	$387,937.11		/		23,095	Trips	$16.80	/ Trip
STEP 7:	**Cost per Residential Dwelling Unit & Commercial/Industrial Trips**							
SFD	$80.43	/ Trip	x	10	Trips/DU		**$804.25**	**/DU**
MF	$80.43	/ Trip	x	8	Trips/DU		**$643.40**	**/DU**
COMM							**$16.80**	**/ Trip**
IND							**$16.80**	**/ Trip**
							Total to be Collected	
Single Family Unit	$804.25	/	DU	x	11,470 DUs	=	$9,224,801.83	
Multi-family Unit	$643.40	/	DU	x	2,950 DUs	=	$1,898,041.18	
Non-residential 1000 Sq. Ft.	$16.80	/	Trip	x	647,522 Trips	=	$10,876,606.99	
							$21,999,450.00	

APPENDIX 7E CHAPTER 4: IMPLEMENTATION

IMPLEMENTATION

This section addresses the actual mechanics of collecting the impact fee. The implementation measures to be discussed include the application of impact fees, timing of collection, the method of collection and the creation of an inflationary adjustment index.

1) APPLICATION OF IMPACT FEES

All new construction, residential and non-residential, will be subject to development impact fees. For additions and expansions, the key determination is intensification. For example, the remodel and expansion of a single family home that resulted in simply a larger single family home would not be subject to impact fees. A single family home that is torn down and replaced with two dwelling units would be required to pay impact fees for the intensification. Therefore, the impact fee would be required for one dwelling unit.

For non-residential development, the concept of intensification is the same. For example, the expansion of a 6,000 square foot building to a 10,000 square foot building would intensify the use and increase the traffic generation rates for the site. In this instance, the development impact fee would apply to the additional 4,000 square feet.

2) TIMING OF FEE COLLECTION

The collection of the impact fee should occur at the time of building permit issuance. There are several reasons for collecting the impact fees at building permit issuance rather than at an earlier development stage or at a later occupancy stage. First, the collection of the fee at building permit issuance is timed more closely to when the actual impacts of the development to public facilities will occur. In most instances, when a building permit is acquired, construction usually occurs in a relatively short period of time. Collecting a fee earlier in the process (e.g. at the development approval stage) contains a greater risk that the development will not actually be constructed. In that event, the City is obligated to refund any fees collected after a certain period of time. This can create both financial and administrative problems for the City, especially if the money has already been spent on a new facility.

Second, collection of the fee at building permit issuance will be administratively easier since most other fees are collected at this time. The developer can pay and the City can collect the fees all at the same time. The necessary accounting of fees to ensure that the monies are spent on facilities actually being impacted by the particular development will be much easier if the money is collected at this stage.

Third, collection the fee at a later stage of development (e.g. time of occupancy) creates another burden on the City to collect the fee after construction is complete. Many people may not be willing to pay the fee at that point making it necessary for the City to institute enforcement procedures. This typically adds another strain on City resources and does not lend itself to good public relations.

3) FEE COLLECTION METHOD

The method the City uses to collect fees is critical to ensure that fees are collected in a proper manner and accounted for in order to withstand any legal challenges. It is recommended that the fees for each facility be charged separately. Although this may sound cumbersome, it is the best way to guarantee an accurate accounting of all fees collected. The basic premise of collecting impact fees is that the fees will be used for specific facilities that are being impacted by the new development. The City is required to account for every penny collected and to set up separate accounts for holding and subsequently spending these fees. Money collected for parks cannot be spent on circulation. Monies collected to pay for a circulation facility cannot be spent somewhere else in the City.

Another reason fees should be collected separately is that if one fee is successfully challenged in the

IMPLEMENTATION
courts, the remaining fees will remain intact. In other words, successful challenge of one fee will not invalidate the entire fee program. From the developer's point of view, it makes no difference if the fees are accounted for separately. The developer would receive a cost accounting of individual fees, but only one check for the total fee would be required.

APPENDIX 7F CHAPTER 5: CAPITAL IMPROVEMENT PHASING

CAPITAL IMPROVEMENT PHASING

The City of Rexburg Capital Improvement Program (CIP) is a planning document that outlines the expenditures for future capital improvement projects and the corresponding revenues to pay for those expenditures.

The following tables identify the future capital improvement projects, provide a brief description of the project, identify funding source and improvement cost. For some of the proposed improvements it is difficult to determine exactly at what point in the future construction will occur. Therefore, the timing for the CIP projects is based on three categories:

- ✓ Improvements within 5 years
- ✓ Improvements within 5 to 10 years; and
- ✓ 10 year plus improvements

The CIP is a planning document and not a commitment for spending. Spending authorization occurs when the City Council formally adopts the proposed budget and funds are only appropriated for the following fiscal year. The information on projects that will occur in subsequent years is to provide a comprehensive overview of all the future facilities the City of Rexburg plans to construct. The Capital Improvement Plan is a living and breathing document subject to annual change. It will become part of the City's annual budgeting process.

CIP PHASING
(The following phasing is a recommendation from Keller Associates based on traffic analysis; City Engineer should review to ensure timing is inline with City needs and priorities.)

PROJECT	PROJECT DESCRIPTION	FUND	BUDGET
0-5 YEARS			
Main Street and 2nd East	Add northbound thru lane Add southbound right turn lane	Other	$1,465,000
2nd South and 2nd West	Restripe adding left turn lane	Other	$37,000
2nd South and 2nd East	Traffic Signal Restripe for left turn lanes	Other	$381,000
2nd E and 7th S	New roadway with curb & gutter, sidewalks, storm sewer	DIF	$954,000
7th South from 2W to Old Yellowstone Hwy	Widen road from 2 lanes to 5 lanes	DIF	$500,000
5-10 YEARS			
2nd East From 3rd South To 1st North	Widen 18' from 3rd S to 1st S Widen 5' from 1st S to Main Widen 12' from 1st N to 2nd N Replace storm sewer, curb & gutter, sidewalk Reconstruct full width pavement Traffic signal at 1st N & 2nd E Lighting	DIF	$2,590,000
Add EB / WB Left Turn Lanes at 2nd S / 2nd E	Add eastbound and westbound turn lanes	DIF	$238,000
2nd West - 1st North Alignment (all improvements between Main St and end of 2nd W-1st N curve)	Widen 12' Reconstruct 63' x 1350' Replace Railroad Crossing Replace storm sewer, curb & gutter, sidewalks	DIF	$2,508,000
Restripe Main/Restripe 2nd W	Restripe Main/Restripe 2nd W Signal	DIF	$164,000

CAPITAL IMPROVEMENT PHASING			
Widen Salem Highway	Add storm sewer, curb & gutter, sidewalk (both sides) Replace railroad crossing Includes 2 signals (SH 33 and 2000 N) Replace 6350' irrigation canal with 72" pipe Reconstruct 3900' of road Widen and overlay 4000' of road Add northbound right turn lane at	DIF	$2,870,000
2nd E and 7th S	New traffic signal	DIF	$344,000
10 YEARS PLUS			
East Parkway	New roadway with curb & gutter, sidewalks, storm sewer Lighting Teton River bridge (180' x 72') Irrigation canal bridge (90' x 72')	DIF	$17,061,000
Widen 12th West	Add storm sewer, curb & gutter, sidewalk (both sides) Replace 130' x 24' bridge with new 130' x 56' bridge Replace 4,600' irrigation canal with 72" pipe Lighting for full length Reconstruct full length	DIF	$5,620,000
Relocate Pioneer/Main Intersection	New roadway with curb & gutter, sidewalks, storm sewer Lighting New traffic signal Box culvert at canal	DIF	$1,356,000
Widen 2000 N	Add storm sewer, curb & gutter, sidewalk (both sides) Replace railroad crossing Reconstruct full length Lighting	DIF	$1,794,450

APPENDIX 7G MULTI-FAMILY ASSUMPTIONS

METHODOLOGY FOR BREAKDOWN OF MULTI-FAMILY UNITS INTO SUBCATEGORIES
The known quantity is future student dwelling units = 2,950 We need to determine breakdown between multi-family single and multi-family non-single. The following information from BYUI was used to calculate the breakdown:
1) BYUI says that their student body is currently and should stay at about 75.56% single students and 24.44% married
2) BYU determines its married/non-single housing units based on 77% of total married student population to take into account that both spouses sometimes attend school

APPENDIX 7H TRIP GENERATION TABLE

TRIP GENERATION TABLE	
LAND USE	**ESTIMATED WEEKDAY VEHICLE TRIP GENERATION RATE**
AIRPORT	
Commercial	60/acre, 100/flight, 70/1000 sq. ft.
General Aviation	6/acre, 2/flight, 6/ based aircraft
AUTOMOBILE	
Car Wash	
a. Automatic	900/site, 600/acre
b. Self-serve	100/wash stall
Gas Station	
a. With food mart	160/vehicle fueling space
b. With food mart & car wash	155/vehicle fueling space
c. Old service station design	900/station, 150/vehicle fueling space
Sales (Dealer & Repair)	50/1000 sq. ft., 300/acre, 60/service stall
Auto Repair Center	20/1000 sq. ft., 400/acre, 20/service stall
Auto Parts Sales	60/1000 sq. ft.
Quick Lube	40/service stall
Tire Store	25/1000 sq. ft., 30/service stall
AIRPORT	
Commercial	60/acre, 100/flight, 70/1000 sq. ft.
General Aviation	6/acre, 2/flight, 6/ based aircraft
CEMETERY	5/acre
CHURCH	9/1000 sq. ft., 30/acre (quadruple rates for Sunday, or days of assembly)
COMMERCIAL RETAIL	
Regional Shopping Center	50/1000 sq. ft., 500/acre
Community Shopping Center (10-30 acres,100,000-300,000 sq. ft. w/usually 1 major store and a detached restaurant)	80/1000 sq. ft., 700/acre
Neighborhood Shopping Center (Less than 10 acres, less than 100,000 sq. ft. w/usually grocery store & drug store)	120/1000 sq. ft., 1200/acre
Commercial Shops	
a. Specialty retail/strip commercial*	40/1000 sq, ft., 400/acre
b. Supermarket	150/1000 sq, ft., 2000/acre
c. Convenience market (15-16 hrs.)	500/1000 sq. ft.
d. Convenience market (24 hrs.)	700/1000 sq. ft.

TRIP GENERATION TABLE	
e. Discount club	60/1000 sq, ft., 800/acre
f. Discount store	60/1000 sq, ft., 600/acre
g. Furniture store	6/1000 sq, ft., 100/acre
h. Lumber store	30/1000 sq, ft., 150/acre
i. Hardware/paint store	60/1000 sq, ft., 600/acre
j. Drug store	90/1000 sq. ft.
k. Garden nursery	40/1000 sq, ft., 90/acre
EDUCATION**	
High School	15/1000 sq. ft., 60/acre
Middle/Junior High	12/1000 sq. ft., 50/acre
Elementary	14/1000 sq. ft., 90/acre
Day Care	80/1000 sq. ft.
FINANCIAL	
Bank	
a. Walk-in only	150/1000 sq. ft., 1000/acre
b. With Drive-through	200/1000 sq. ft., 1500/acre
c. Drive-through only	250 (125 one-way)/lane
Savings & Loan	60/1000 sq. ft., 600/acre
a. Drive-through only	100 (50 one-way)/lane

LAND USE	ESTIMATED WEEKDAY VEHICLE TRIP GENERATION RATE
HOSPITAL	
a. General	20/bed, 25/1000 sq. ft., 250/acre
b. Convalescent/Nursing	3/bed
INDUSTRIAL	
Industrial/Business Park (with commercial)***	16/1000 sq. ft., 200/acre
Industrial Park (no commercial)	8/1000 sq. ft., 90/acre
Industrial Plant (multiple shifts)	10/1000 sq. ft., 120/acre
Manufacturing/Assembly	4/1000 sq. ft., 50/acre
Warehousing	5/1000 sq. ft., 60/acre
Storage	2/1000 sq. ft., 0.2/vault, 30/acre
Science Research & Development	8/1000 sq. ft., 80/acre
Landfill and Recycling Center	6/acre
LIBRARY	50/1000 sq. ft., 400/acre
LODGING	
Campground	4/campsite
Hotel (with convention facilities/restaurant)	10/room, 300/acre

TRIP GENERATION TABLE	
Motel	9/room, 200/acre
Resort Hotel	8/room, 100/acre
Business Hotel	7/room
OFFICE	
Standard Commercial Office****	20/1000 sq. ft., 300/acre
Single tenant Office*****	14/1000 sq. ft., 180/acre
Office Park (less than 400,000 sq ft)	16/1000 sq. ft.
Office Park (400,000+ sq. ft.)	12/1000 sq. ft., 200/acre
Government (Civic Center)	30/1000 sq. ft.
Post Office	
a. Central/Walk-in Only	90/1000 sq. ft.
b. Community (no mail drop lane)	200/1000 sq. ft./ 1300/acre
c. Community (w/ mail drop lane)	300/1000 sq. ft / 2000/acre
Department of Motor Vehicles	180/1000 sq. ft., 900/acre
Medical/Dental	50/1000 sq. ft., 500/acre
RECREATION	
Bowling Center	30/lane, 300/acre
Golf Course	7/acre, 40/hole, 600/course
a. Driving Range Only	70/acre
Racquetball/Health Club	30/1000 sq. ft., 300/acre, 40/court
Tennis Courts	16/acre, 30/court
Theaters (multiplex)	80/1000 sq. ft., 1.8/seat
RESTAURANT	
Quality	100/1000 sq. ft., 3/seat, 500/acre
Sit-down, high turnover	160/1000 sq. ft., 6/seat, 1000/acre
Fast Food (with drive through)	650/1000 sq. ft., 20/seat, 3000/acre
Fast Food (without drive through)	700/1000 sq. ft.
Delicatessen (7am-4pm)	150/1000 sq. ft., 11/seat

NOTES: For uses not listed, the Public Works Director shall make the decision regarding the appropriate traffic generation rate. This determination shall be based upon ITE standards or traffic reports submitted with the proposed non-residential use.

Additional Notes:

*Specialty commercial - Examples would be a flower shop, a store with crafts/knick knacks, a ceramics shop etc.

**Education Facilities - For purposes of general impact fee calculation, the fee will be based on square footage. If a traffic study is prepared to look in further detail at traffic impacts, per student ratios are sometimes utilized. Examples of ADT per

***Industrial /Business Park (with commercial) - This would be an industrial park that has a deli and/or reproduction that are commercial establishments within the park.

**** Standard Commercial Office -Most offices would fall in this category. Typically this type of office would have customers. Examples would be a Real Estate Office, HR Block (taxes).

****Single tenant office would be a building with only one tenant, often a corporate headquarters. It would likely be a destination more for the employees, rather than bringing in a large amount of public customers.

APPENDIX 7I RULES OF USAGE

REXBURG STREET IMPACT FEE RULES FOR USAGE
The following assumptions are to be used in determining what work is to be included in the costs for street construction that will be eligible for funding through the impact fees. This policy applies to only those streets defined in the street impact fee study.
1. All initial construction of sidewalks, curbs and gutters are to be done by the property owners and are not to be included in impact fees.
2. All initial streets and amenities such as signing, lighting, landscaping, fencing, costs to widen or enlarge irrigation facilities driven by a new development are to be done by the property owners and are not to be included in impact fees.
3. If the new street is part of a street designated in the street impact fee study that requires more than two traffic lanes, the owners on each side of the street are each responsible for 19.5 feet of finished street and applicable amenities. The additional lanes can be funded through the impact fees.
4. Roads that exist can be widened with impact fees but the costs to reconstruct the existing facilities cannot. Seal coating of the widened street can be included one time in the impact fee calculation.
5. Bridges that require widening can be widened but the costs to reconstruct the existing bridge cannot be done with impact fees.
6. Additional storm drainage facilities that are driven by the development of a road widening will be included in impact fee calculations.
7. For existing streets, street amenities such as signing, lighting, landscaping, fencing, costs to widen or enlarge irrigation facilities driven by the road widening will be included.
8 New traffic control devices such as traffic signal can be included in impact fee calculations. If the costs for up-grading of existing traffic signals will increase the traffic capacity, then the costs will be included. If the replacement of an existing signal is required the capacity of the existing signal system cannot be included.
9. Rail crossings that are require widening can have only the costs for the widening included in the fee calculation. New controlled crossings that have changed status because of the increased capacity can be included in the calculations.
10. Ancillary work, such as surveying, flagging, traffic control during construction and similar work can be included in the calculation.

APPENDIX 8 PERMIT APPLICATION FOR GIVING PETS AWAY

Permit Application
FOR GIVING PETS AWAY ON CITY PROPERTY OR AT A PLACE OF BUSINESS
WITHIN THE CITY OF REXBURG

Date of Application: _____

Name of Pet Owner: _____

Address of Pet Owner: _____

Phone Number of Pet Owner: _____

Description of Pet(s) to be Given Away: _____

Age of Pets: _____

Vaccinations Provided to these Pets: _____

Have These Pets been Spayed or Neutered: Yes No

What is the Date of the Proposed Pet Give-Away: _____

What Location Do You Intend to Use for This Pet Give Away: _____

If Place of Business, Does Management Concur With This: Yes No

If Yes, Please Have Manager or his Representative Sign and Date:

Signature of Manager: _____

Date Signed: _____

APPLICATION: DENIED APPROVED

Officer's Signature: _____

Date of Determination: _____

APPENDIX 9 COLLECTION OF REPEALED ORDINANCES

ORDINANCE NUMBER	ORDINANCE CONTENT	REPEAL DATE
Ordinance 263	Prize Fighting Prohibition	Repealed January 5th, 1921

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