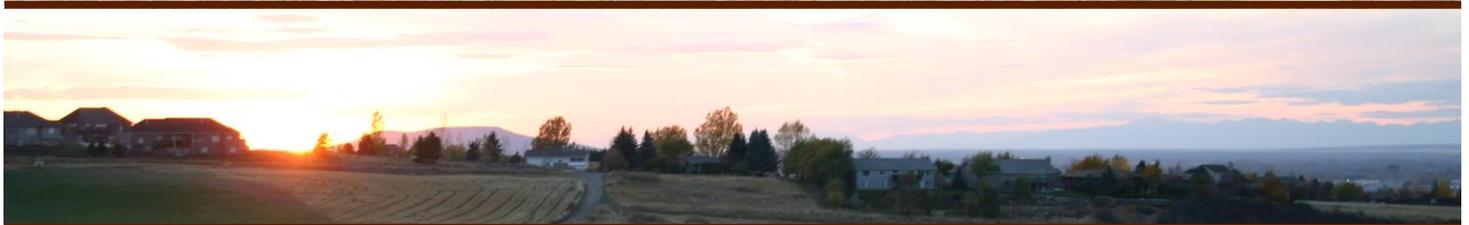


# City of Rexburg

## Municipal Code



Adopted 8/15/2007 | Last Updated 01/01/2015



**REXBURG MUNICIPAL CODE**  
**2015**

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## PREFACE

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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 The legal code for a city is a living document whose sections may be added to, amended, and/or repealed based on local laws.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 **January 1, 2015**, to provide citizens and city officials with 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 1115.

## **TITLE 1 GENERAL PROVISIONS**

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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provisions continuing in force all ordinances passed by a city under its former organization, until altered or repealed by the mayor and council, see [Idaho Code §50--201](#).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:

For a complete list of the definitions please see [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.

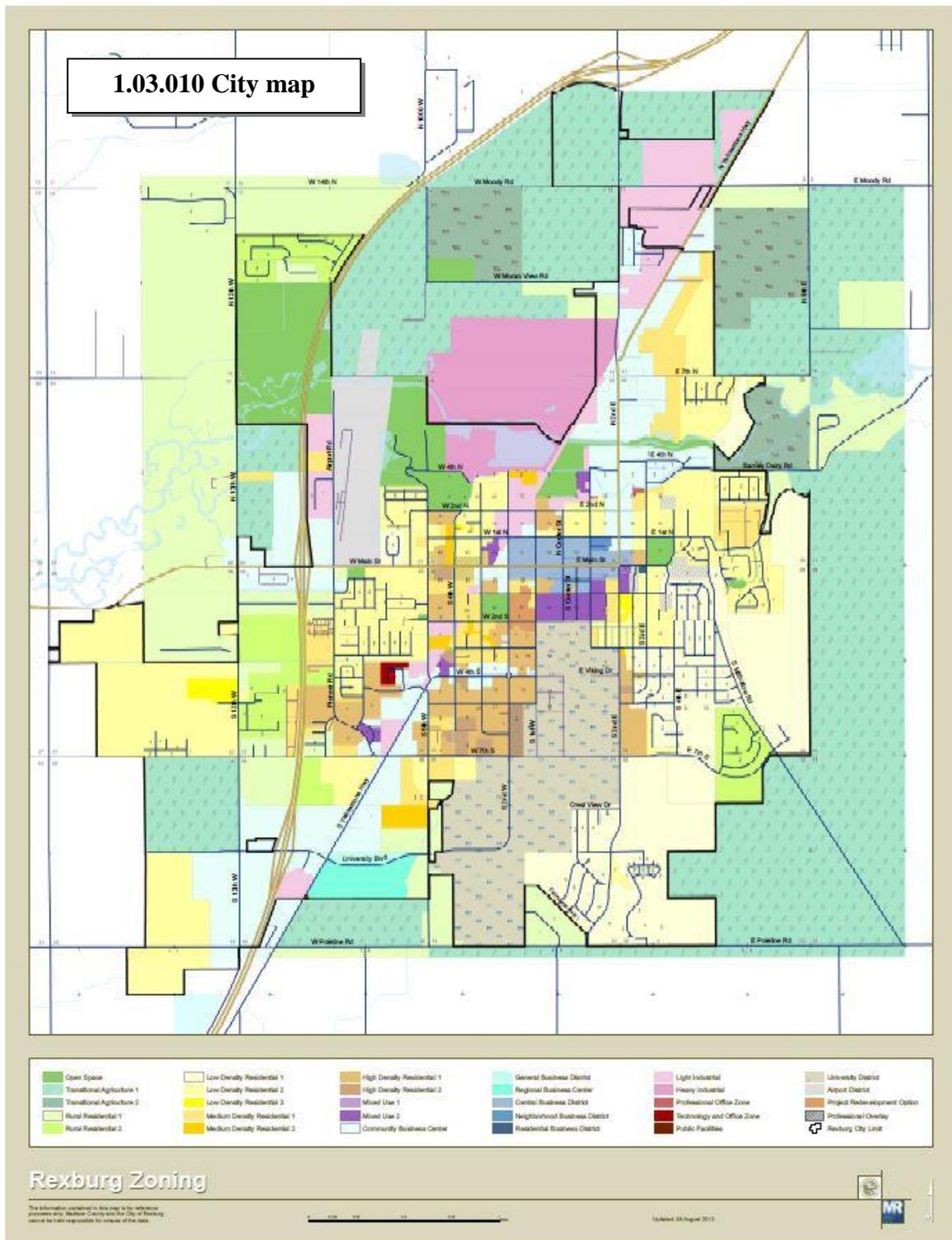
**1.02.020 Violations and penalty – Misdemeanors**

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**

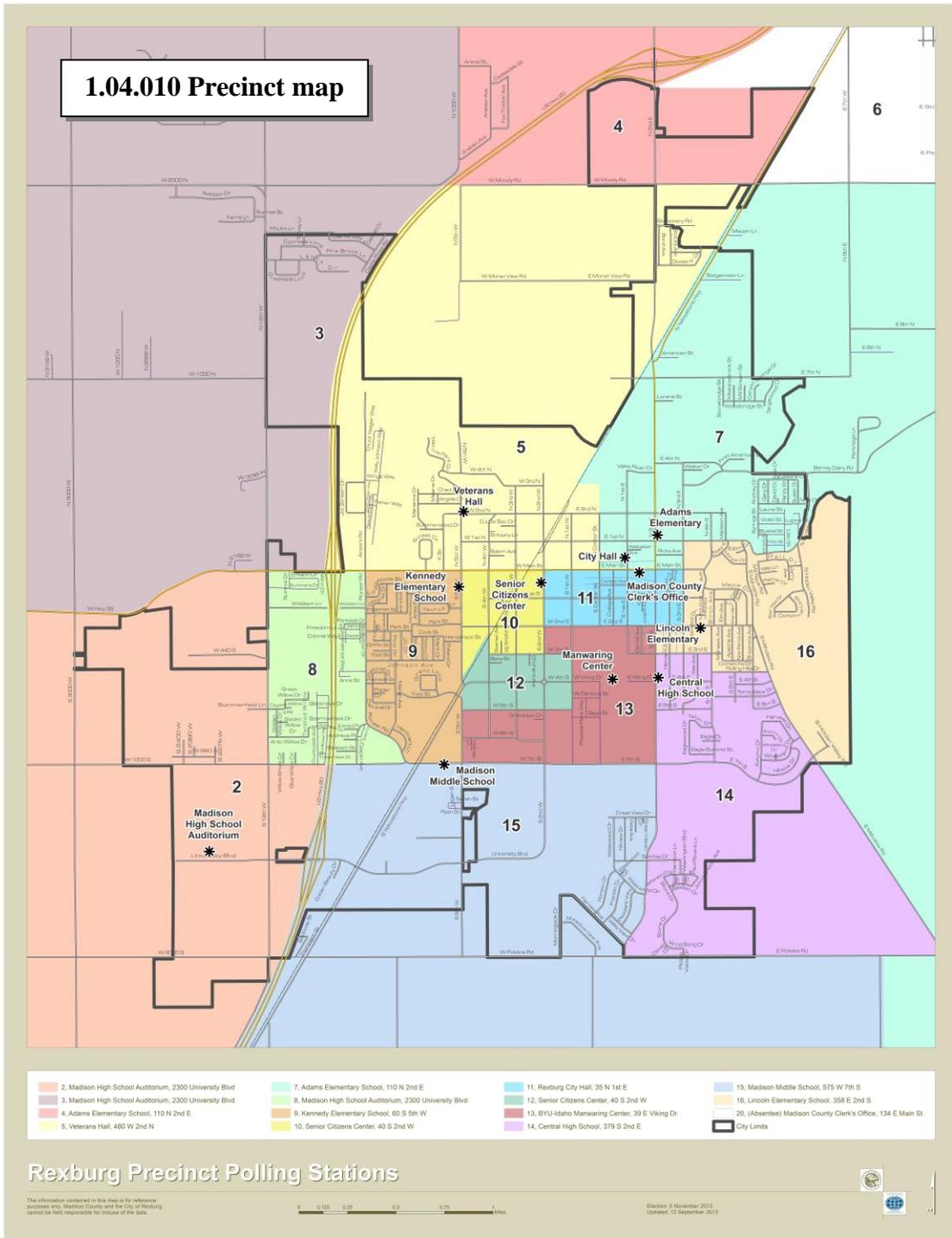
It is hereby declared to be the intention of the Council that the sections, paragraphs, sentences, clauses and words of this Code are severable, and if any word, clause, sentence, paragraph or section of the Code shall be declared unconstitutional or otherwise invalid by the valid judgment or decree 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



The current **Rexburg Maps** can be found at the follow web address: <http://rexburg.org/pages/Maps>

Chapter 1.04 Elections



The current **Rexburg Maps** can be found at the follow web address: <http://rexburg.org/pages/Maps>

**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 4<sup>th</sup> East then to Reed Street then to Morgan Drive then north on Millhollow Road to East 1<sup>st</sup> North then east on North Hill Road to Barney Dairy Road. Also, those areas that are part of the City east of 2<sup>nd</sup> 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 12<sup>th</sup> West, north of 7<sup>th</sup> South and the South Yellowstone Hwy, and west of South 5<sup>th</sup> 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 5<sup>th</sup> West, north of West 4<sup>th</sup> South and west of South 2<sup>nd</sup> 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 4<sup>th</sup> South, east of the South Yellowstone Hwy, north of West 7<sup>th</sup> South, and west of South 2<sup>nd</sup> 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 2<sup>nd</sup> West, north of West 2<sup>nd</sup> 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 2<sup>nd</sup> South, east of South 2<sup>nd</sup> West, north of West 4<sup>th</sup> South, and west of South 1<sup>st</sup> 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 4<sup>th</sup> South, West Viking Street, and East Viking Street; East of South 2<sup>nd</sup> West, north of East and West 7<sup>th</sup> South, and west of South 2<sup>nd</sup> 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 2<sup>nd</sup> East, then the area south of 2<sup>nd</sup> South between South 1<sup>st</sup> West and South 2<sup>nd</sup> 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 7<sup>th</sup> South; also those parts of the City that are south of East 5<sup>th</sup> 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 2<sup>nd</sup> East between East Main Street and East 5<sup>th</sup> South going in an easterly direction on East 5<sup>th</sup> South to South 4<sup>th</sup> 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 4<sup>th</sup> East, then to Reed Street, then to Morgan Drive, then north on Millhollow Road to East 1<sup>st</sup> 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 public instruments or official acts of the council, which by the law or Ordinance are required to be attested by the City seal; and in the meantime preserve said seal in a secure place and secure from interference. ([Ord. 116 §2 1904](#); [Ord. 58 §2\(part\), 1903](#)).

### **1.06.020 Previous City Seal**



### **1.06.030 Redesigned City Seal and Logotype**



## **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**

All official depositories for the City of Rexburg shall be designated by resolution as an official depository for the funds of the City of Rexburg, Idaho. The City Treasurer is hereby ordered, required and directed to keep moneys belonging to, or in the care of, the City Treasurer in any so designated depository; provided, however, that when so authorized by the Mayor and Council, city funds may be, by the Treasurer, invested in securities authorized by law. ([Ord. 1009 §1, 2008](#)).

### **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**

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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 Mayor shall receive an annual salary in the sum of Sixty Seven Thousand Five Hundred Ninety Two Dollars (\$67,592), and shall be paid Five Thousand Six Hundred Thirty Three dollars (\$5,633) monthly. ([Ord. 1102, §1, 2013](#)).

### **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 7:00 p.m. at City Hall at 35 North 1st East 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](http://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.

[\(Resolution No. 2011-14 §1C\)](#)

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, 2014, 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 Seventy Two Hundred dollars (\$7,200), and shall be paid Six Hundred Dollars (\$600.00) monthly. ([Ordinance 1102 §2, 2013](#)).

**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**

For additional information please see [Idaho Code §50-702](#).

**2.02.190 President of the Council, election of**

For additional information please see [Idaho Code §50-702](#).

**2.02.200 President of the Council, Election of**

For additional information please see [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 1<sup>st</sup> 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 Mayor in cooperation with the Rexburg Arts Council to be responsible for the conservation and maintenance for all works of art in the public art program. ([Ord. 1086, 1.10.040\(A\), 2012](#); [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**

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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\***

### **3.02.010 Department established**

There is hereby established an executive department of the City of Rexburg to be known as the Customer Support Services Department. The head of such department shall be known as the City Clerk, who shall be appointed by the Mayor with the advice and consent of the Council.

\*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](#).

### **3.02.020 Departmental functions**

The Department shall perform the following functions under the direction of the City Clerk:

- 1) Assist with the duties of the City Clerk.
- 2) Receiving and posting payments made to various accounts for the City of Rexburg.
- 3) Answer visitor/customer inquiries and complaints.

- 4) Directing visitors/customers to their destinations.
- 5) Sorting and handing out mail.
- 6) Answer incoming calls.
- 7) Scheduling and making reservations for city facilities and venues.
- 8) Reconciling cash received for various city facilities and venues.
- 9) Ordering and managing supplies.
- 10) Scheduling and creating ads for the Romance Marquee.

### **CHAPTER 3.03 DEPARTMENT OF EMERGENCY SERVICES\***

\*Note to Chapter 3.03: 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 its own revenue, but it is 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 apparatuses 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.

### **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**

### **3.05.010 Department established**

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

### **3.05.020 Departmental functions**

The Department shall perform the following functions:

- 1) Manage and maintain the beautification of city owned parks, facilities, venues, and certain city streets (e.g. Main Street).

## **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 Geographical Information Systems (GIS) Department. The head of such department shall be the GIS Coordinator, who shall be appointed by the Mayor and ratified by the City Council.

\*Note to Chapter 3.07: The GIS Department works in conjunction with Madison county to provide Madison County and the City of Rexburg with a GIS program. The GIS Department serves both Madison County and the City of Rexburg in meeting their mapping and data analysis needs.

### **3.07.020 Departmental functions**

The Department shall perform the following functions:

- 1) Management and operation of the Geographical Information Systems hardware and software.
- 2) Collecting and maintaining geographic data, including parcels, roads, land-use zones, utilities, and other datasets used for planning and meeting decisions.
- 3) Create maps and graphs, using GIS software and related equipment.
- 4) Meet with customers/users to define needs, information/data, project requirements, answer questions, etc.
- 5) Conduct Research to locate and obtain existing databases.
- 6) Gather, analyze, and integrate data for geographic statistics to incorporate into documents and reports.
- 7) Compile geographic data from a variety of sources including censuses, field observation, satellite imagery, aerial photographs, and existing maps.
- 8) Design and update the GIS database.

## **CHAPTER 3.08 DEPARTMENT OF TECHNOLOGY COORDINATION SERVICES**

### **3.08.010 Department established**

There is hereby established an executive department of the City of Rexburg to be known as the Technology Coordination Services (TCS) Department. The head of such department shall be the TCS Director, who shall be appointed by the Mayor and ratified by City Council.

### **3.08.020 Departmental functions**

The Department shall perform the following functions:

- 1) Management and operation of computer servers.
- 2) Management and operation of communication systems.
- 3) Management and operation of the Internet Web Site.
- 4) Maintenance and repairing of computer systems.
- 5) Training and implementation of new software and technology.
- 6) Receiving and management of concerns centered on the aforementioned.

## **CHAPTER 3.09 DEPARTMENT OF RECREATION**

### **3.09.010 Department established**

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

### **3.09.020 Departmental functions**

The Department shall perform the following functions:

- 1) Management and operation of recreational activities, services, programs and events.
- 2) Management and operation of Rexburg Rapids

## **TITLE 4 COMMISSIONS, COMMITTEES AND BOARDS**

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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 rules 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. ([Ord. 699 §2, 1990](#)).

#### **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. ([Ord. 699 §5, 1990](#)).

### **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 [§2.01.060](#), 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**

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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. 1086 §1, 2012](#); [Ord. 937, §1, 2005](#)).

#### **5.02.020 Definitions**

For a complete list of the definitions please see [Ord. 1086, §1.10.020, 2012](#) (History: [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. Costs associated with management, maintenance, operation

and creation of venues for the Arts, such as live theaters, auditoriums, or public performance venues shall also constitute Works of art for purposes of this Chapter.

For additional requirements please see ([Ord. 1086, §1.10.030, 2012](#); [Ord. 937, §1.10.030, 2005](#)).

#### **5.02.040 Administrative responsibilities**

- 1) The City designates the Mayor in cooperation with the Rexburg Arts Council to be responsible for the conservation and maintenance for all works of art in the public art program.
- 2) Works of Arts shall not be inconsistent with the City's comprehensive plan, goals, and purposes, zoning and subdivision ordinances, and land uses contemplated therein.

([Ord. 1086, §1.10.040, 2012](#); [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.

For additional information on how to compute the amount placed in the public art account please see [Ord. 1086, §1.10.050, 2012](#); [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” click [here](#).

### **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:

For a complete list of these findings please see [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:

For a complete list of the definitions please see [Ord. 961, §01.020, 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:

For additional information please [see Ord. 961, §2, 2006](#).

- 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.

For additional information please see ([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 [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:

For more information please see ([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**

For additional information on this section please see [Ord. 961, §8, 2006](#).

#### **5.05.110 Credits and reimbursement**

For additional information on this section please see [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:

For circumstances under which you can seek refund please see [Ord. 961, §10, 2006](#)

- 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, conveyance, 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](#)).

For the full “Report” please click [here](#).

#### **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**

For additional information on this section please see [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.’” For the complete “Report” please click [here](#) ([Ord. 961, §13, 2006](#)).

## **TITLE 6 BUSINESS REGULATIONS**

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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 or registrations 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) The purpose of this chapter is to provide one document covering all license or registration fees and investigation fees or processing fees connected with the issuance or renewal of licenses or registrations for any business license or registration by the city. The fees referenced 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. The City Council shall modify or update the city fees by resolution as needed.
- 3) A further purpose of this Chapter is to protect the health, safety, and welfare of the City of Rexburg and its residents. This ordinance is not intended to prohibit or hamper speech which is protected by the First Amendment, but merely to regulate specific activities which are commercial in nature. ([Ord. 1029, §1, 2010](#)).

#### **6.01.020 License or Registration required**

Registration is required for all businesses, including professional services. No fees shall be charged unless they are delineated on the City's master fee list. It shall be unlawful for any vendor, solicitor, or temporary merchant, as the same are herein defined, to engage in such business or to employ another in such business within the corporate limits of the City without first obtaining a license or registration from the City Clerk's Office in compliance with the provisions of this Chapter. All vendors, solicitors, or temporary merchants must meet all applicable city, state, and federal law and licensing requirements including District Seven Health Department Regulations and Requirements, before a registration or license is issued. The applicant must continually maintain a City issued license or registration. ([Ord. 1029, §2, 2010](#)).

#### **6.01.030 Exceptions**

The provisions of this Chapter shall not apply to:

- 1) Any sales under court order;
- 2) 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;
- 3) The sale of farm or garden products by the person producing the same;
- 4) The sale of a newspaper subscription in which the seller is a person engaged in both the delivery and sale of the newspaper;
- 5) The occasional sale of admission by local school students to a function of their school; or fund raising sales by local service clubs or groups such as Elks, Kiwanis, Lions, Boy or Girl Scouts;
- 6) Any political group seeking funds or membership;
- 7) Garage, yard, or similar sales by individuals at their residence or place of business not exceeding two (2) separate sales in one (1) calendar year, not to exceed three (3) days each, which sales shall not include business inventory or items that have been purchased for the purpose of resale at another garage sale;
- 8) Any organization exempt from taxation as provided by [26 U.S.C. 501](#) and meeting all the requirements for the exemptions provided by [U.S.C. 503](#);
- 9) Any activity conducted pursuant to a Special Events Permit. ([Ord. 1029, §3, 2010](#))

#### **6.01.040 Definitions**

As used in this chapter and in any ordinance regulating business or requiring a license or registration 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:

For a complete list of the definitions please see [Ord. 1029, §4, 2010](#).

#### **6.01.050 Types of fees**

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

- 1) A license or registration fee, paid by the operator of the business for the issuance of the license or registration;
- 2) A nonrefundable investigation fee, covering the cost of investigating to determine whether the applicant is eligible for a license or registration. 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 or registration fee;

- 3) A nonrefundable processing fee, covering the cost of processing an application. This type of fee shall be charged per the business registration fee list. This fee shall be in addition to the license or registration fee. ([Ord. 1029, §5, 2010](#)).

#### **6.01.060 License or registration fees**

Business license or registration fees shall be reviewed annually and any changes shall be made by resolution of the City Council. Any license or registration fee that is not on the most current City Clerk License or Registration Fee Schedule shall have fees set by the mayor and city council in each individual situation. The vendor, solicitor or canvasser, or temporary merchant non-refundable license or registration fee, in an amount established by the Rexburg City Council and listed on the most current City Clerk License or Registration Fee Schedule, shall be paid in advance. ([Ord. 1029, §6, 2010](#)).

#### **6.01.070 Fee payment required**

No person shall operate any business for which a license or registration fee is established by this chapter until and unless the license or registration fee has been paid on behalf of that business. No business license or registration shall be issued until after the payment of the fee required by this chapter. No license or registration shall be issued until any applicable investigation fee or processing fee has been paid. All license or registration 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 actually making the investigations or processing the applications in question. ([Ord. 1029, §7, 2010](#)).

#### **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. 1029 §7, 1990](#)).

#### **6.01.080 Application**

For additional information on this section please see [Ord. 1029, §8, 2010](#)

#### **6.01.090 Investigation**

- 1) Such application, or application for renewal, the City Clerk shall refer it to the Chief of Police, who shall cause an investigation to determine the 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 (5) working days. Providing, where application for renewal of a license or registration is involved, and the City Clerk has received no complaint or allegation, the City Clerk may waive payment of the investigation fee and issue the renewal license or registration, upon payment of the license or registration fee, without referral of the application to the Chief of Police.

For more information about the process of investigation please see [Ord. 1029, §9, 2010](#)

- 1) The City Clerk shall notify the applicant whether his license or registration request is approved and upon payment of the prescribed license or registration fee, shall issue a license or registration. Such license or registration shall show the name, address, the type of license or registration issued, the amount of fee paid, the date of issuance and the date of expiration. The license or registration for peddlers, solicitors, canvassers, or transient merchants will also include a photograph of said licensee and the kind of goods to be sold or type of sales to be solicited there under.
- 2) The City Clerk shall notify the applicant if his license or registration request is disapproved the reasons therefore, and advise him of the appeal procedure. ([Ord. 1029, §9, 2010](#)).

#### **6.01.100 Term of license or registration**

- 1) License or registration year. Except where otherwise specifically provided in connection with a business, the license or registration 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 or registration unless an application has been made for a new license or registration and a new license or registration has been issued.
- 2) License or registration for less than a year. If a business or operation is started after the middle of the license or registration year, the fee for the license or registration shall be one-half of the annual fees in the absence of a specific provision to the contrary. ([Ord. 1029, §10, 2010](#)).

#### **6.01.110 Administrative appeals**

Any person aggrieved by any decision relating to the issuance of a license or registration may file an administrative appeal in the manner provided by ordinance. ([Ord. 1029, §11, 2010](#)).

#### **6.01.120 Recordkeeping**

Nothing in any city ordinance shall be deemed to prohibit the City Clerk from using computers to organize information concerning license or registrations, or to store or process such information. The clerk shall, however, have at least one written record, on paper, of each license or registration application and of each license or registration issued, organized in such a way that, if necessary, a manual search could retrieve information by the names of license or registrations. ([Ord. 1029, §12, 2010](#)).

#### **6.01.130 Number limitations**

In the absence of a specific provision to the contrary, no ordinance is to be interpreted as limiting the number of license or registration 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 or registration because of the officer or employee's belief that there is enough of a particular type of business in the city already. ([Ord. 1029, §13, 2010](#)).

#### **6.01.140 Duty to issue**

No city ordinance relating to business license or registration shall be interpreted as granting or attempting to grant to any city officer or employee any discretionary authority to issue a license or registration to refuse to issue a business license or registration. License or registration shall be issued to each applicant complying with all applicable state laws and city ordinances, and license or registration shall be refused for any applicant failing to comply with all such applicable laws and ordinances. ([Ord. 1029, §14, 2010](#)).

#### **6.01.150 Fire extinguishers**

Each business shall have at least one city approved 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. 1029, §15, 2010](#)).

#### **6.01.160 Inspections**

Any business in the city may be inspected by city officers and employees authorized to enforce provisions of ordinances which include building, fire, plumbing, and electrical codes 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. 1029, §16, 2010](#)).

#### **6.01.170 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. 1029, §17, 2010](#)).

#### **6.01.180 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. 1029, §18, 2010](#)).

#### **6.01.190 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. 1029, §19, 2010](#)).

#### **6.01.200 Bond Requirement**

- 1) Before any license or registration as provided herein shall be issued for engaging in the business of peddler, solicitor or canvasser, or transient merchant as defined in this ordinance, 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 as outlined in the current city fee resolution. 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 as outlined in the current city fee resolution for each employee and/or agent.

For more information about Bond Requirement please see ([Ord. 1029, §20, 2010](#)).

#### **6.01.202 Bond Requirements for non- peddler, solicitor or canvasser, or transient merchant**

- 1) Bonding for other businesses may require bonding as deemed necessary by the City Clerk. ([Ord. 1029, §20, 2010](#)).

#### **6.01.210 Exhibition of License or Registration**

- 1) The City Clerk shall notify the applicant whether his license or registration request is approved and shall issue a license or registration. Such license or registration shall show the name, address, the type of license or registration issued, the amount of fee paid, the date of issuance and the date of expiration. The license or registration for peddlers, solicitors, canvassers, or transient merchants will also include a photograph of said licensee and the kind of goods to be sold or type of sales to be solicited there under.

- 2) The City Clerk shall notify the applicant if his license or registration request is disapproved, the reasons therefore, and advise him of the appeal procedure pursuant to the provisions of this ordinance.
- 3) The license or registration issued to the license or registration hereunder by the City Clerk shall be exhibited in a conspicuous place if the license or registration 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. 1029, §21, 2010](#)).

#### **6.01.220 Mobile Vending Cart, Trailer, and Vehicle standards**

For additional information on this section please see [Ord. 1029, §22, 2010](#).

#### **6.01.230 General Restrictions**

For additional information on this section please see [Ord. 1029, §23, 2010](#).

#### **6.01.240 Location Restrictions**

No license or registration 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 ordinance, 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 or registration that is licensed or registered pursuant to this ordinance, where such business activity is prohibited or violates setbacks as established by the City of Rexburg Development Code. ([Ord. 1029, §24, 2010](#)).

#### **6.01.250 Street Vending Restrictions**

In addition to the restrictions and qualifications contained in this chapter, street vendors are additionally subject to the following restrictions:

- 1) Parking Restrictions. Vendor trailer or vehicles must at all times be parked in a legal manner. Vending operations shall be conducted only to pedestrians on sidewalks. No service to the public shall be made from the street side of the vehicles(s).
- 1) "Open for Business" Sign. To differentiate between vending trailers or vehicles that are merely legally parked on the street from those that are actively engaged in vending operations, any street vending cart, trailer, or vehicle must place an "open for business" sign on the cart, trailer, or vehicle in a conspicuous manner when the vending operations are open for business. Conversely, this sign must be taken down when vending operations have ceased. ([Ord. 1029, §25, 2010](#)).

#### **6.01.260 Additional restrictions within Commercial Business Districts including Pro-Zones and Mixed Use Zones:**

- 1) In addition to the restrictions contained in this chapter, all vendors, solicitors, and temporary merchants must comply with the following restrictions in order to vend in the Commercial Business District (Commercial Zones) unless exempted by a special events permit:

For the complete list of these restrictions please see [Ord. 1029, §26, 2010](#)

- 2) Only one vending cart may occupy an IVL at one time.
- 3) Anytime a mobile vending cart occupies an IVL it must be open for business, and the vendor may not leave the cart unattended for greater than fifteen consecutive minutes. A mobile vending cart occupying an IVL that is unable to conduct business shall be removed after fifteen (15) minutes.
- 4) Beginning at seven (7) a.m. the first properly license or registration mobile vendor that positions his or her cart over the IVL may maintain that position until eleven (11) p.m. as designated by the City Clerk, or except as provided herein.

For more information please see [Ord. 1029, §26, 2010](#).

#### **6.01.270 Unlawful to Conduct:**

For additional information on this section please see [Ord. 1029, §27, 2010](#)

#### **6.01.280 Enforcement**

It shall be the duty of any police office of the City to enforce this ordinance. The Chief of Police shall report to the City Clerk all violations of this ordinance. ([Ord. 1029, §28, 2010](#)).

#### **6.01.290 Renewals**

License or registrations which are not renewed for a minimum of any six (6) quarters within the two (2) year period from the date of the original issue shall be, upon application for renewal, treated as an original application. ([Ord. 1029, §29, 2010](#)).

#### **6.01.300 Expiration of License or Registration**

All license or registrations issued under the provisions of this ordinance shall expire on the date specified in the permit. No shall be issued for a period longer than one (1) year. ([Ord. 1029, §30, 2010](#)).

#### **6.01.310 Penalty**

Any person, business, firm, company or corporation who shall violate any of the provisions of this ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not to exceed three hundred dollars (\$300.00), or by imprisonment in the county jail for a period not to exceed thirty (30) days or both such fine and imprisonment. Each day or violation continued shall be separate offenses, punishable as herein above described. ([Ord. 1029, §31, 2010](#)).

#### **6.01.320 Severance Clause**

The provisions of this ordinance are declared to be severable if any section, sentence, clause, or phrase of this ordinance shall not affect the validity of the remaining sections, sentences, clauses and phrases of this ordinance but they shall remain in effect, it being the legislative intent that his ordinance shall stand notwithstanding the invalidity of any part. ([Ord. 1029, §32, 2010](#)).

#### **6.01.330 Cancellation of sale**

The buyer shall have the right to cancel the door-to-door sale within three business days. A business day is any calendar day except Sunday, or the following holidays New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day and Christmas Day. ([Ord. 1029, §33, 2010](#)).

#### **6.01.340 Suspension**

Any person or business in violation of any portion of this ordinance or of the Rexburg City Code shall have their rights to engage in business within the City of Rexburg suspended. ([Ord. 1029, §34, 2010](#)).

### **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**

For additional information on this section please see [Ord. 707 §3, 1990](#).

#### **6.02.040 License application**

- 1) For additional information on this section please see [Ord. 707 §4, 1990](#).

#### **6.02.050 Issuance investigation**

- 1) Upon 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 AND WINE 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 six 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](#)).

### **6.03.170 Beer and the addition of wine licenses**

The City Council recognizes that the State of Idaho requires every Community to offer Wine Licenses to separate those sales from beer sales. Now therefore be it resolved that the City Council of the City of Rexburg approves the addition of Wine Licenses in addition to the traditional Beer Licenses for beer and wine retail sales in the City of Rexburg; and be it further resolved, that the annual expiration of said Wine and Beer Licenses will expire on the same date of September 30, each year to coincide with the State of Idaho and Madison County’s expiration dates; and be it further resolved, that Wine Licenses and Beer Licenses will be regulated under the same City Ordinances. ([Res. 2004 – 24 Wine License](#))

## **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\(B\) \(1\), 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\(B\) \(2\), 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\(B\) \(3\), 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 complied with Section 6.05.160 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 6.06.010. 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 6.06.030. 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 6.06.010. If the required standards have not been met the conditional license shall be suspended according to the procedures set forth in Section 6.06.070.

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.

For more information about the Improvement Requirements please see [Ord. 548 §6\(C\), 1974](#)

- 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) of Ordinance 548. ([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 6.06.010. ([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**

For additional information on this section please see [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 money 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. If 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 crisscross 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 or 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 ten (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 or 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.

For information about exceptions please see ([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](#)).

### **6.08.021 Pawnbroker License Required**

- 1) The transactions set out herein are hereby declared to constitute the carrying out of a pawnbroker business. It is unlawful for any person to own/operate any such business or carry on any of the following business transactions without having first obtained a pawnbroker's license to do so:

For more information about this section please see [Ord. 1053, 2010](#)

- 2) A sign or advertisement indicating that a person or place of business is engaged in any of the above types of transactions shall be considered prima facie evidence that the operation constitutes a pawnbroker business, regardless of any business name or term or phrase by which the business may be described. ([Ord. 1053, 2010](#)).

### **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 [here](#). ([Ord. 732 §1\(10\), 1992](#)).

#### **6.08.051 License fee**

The license fee for a pawnbroker as defined herein shall be fifty dollars (\$50.00) per year or fraction thereof. ([Ord. 1053, 2010](#))

#### **6.08.052 Single act constitutes pawnbroker business**

The doing of any single act enumerated in section 6.08.021 of this chapter shall constitute the carrying on of a pawnbroker's business within the meaning of this chapter. ([Ord. 1053, 2010](#))

#### **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](#)).

#### **6.08.061 Accurate records; transaction details required**

- 1) It shall be the duty of every pawnbroker doing business in the city to maintain in his place of business a permanent electronic record, through software compatible with the city's law enforcement record system, of all parties entering into transactions regulated by this chapter and a complete description of the transactions. The pawnbroker shall be responsible for ensuring that each person entering into a transaction provides a current driver's license or other identification card issued by any state, federal, or local

government which includes a photograph in order to verify the person's identity. The information to be transmitted shall include:

For details on what the transmitted information includes please see [Ord. 1053, 2010](#)

- 2) Every transaction shall be evidenced by a written document, signed by the person entering into the transaction, and a copy shall be furnished to the pledger. The document must contain, at a minimum, the date of the transaction, the term of the loan, the date on which the loan is due and payable, and information that the pledger has the right to redeem the pledge within ten (10) days after the expiration of the loan term. The signed original must be retained on file at the pawnbroker's business address for at least one year.
- 3) All paper and computer records of property received and transactions made shall be open to, and made available for, inspection by the city's law enforcement personnel during the pawnbroker's normal business hours. ([Ord. 1053, 2010](#))

#### **6.08.062 Transmittal of daily reports required**

Every pawnbroker doing business in the city shall maintain in his place of business a complete paper and electronic record as described in this chapter of all transactions conducted either by him/herself or by his employees or other staff. A record of each day's transactions shall be transmitted by five o'clock (5:00 p.m.) the following business day to the Rexburg police department via electronic transfer or through such other method as approved by the chief of police. ([Ord 1053, 2010](#))

#### **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](#)).

#### **6.08.091 Retention of Property**

A pawnbroker must retain any property received in pledge until thirty (30) days after the term of the original loan has expired. Provided, however, that gold, silver, and other precious metals not in the form of jewelry may be disposed of as soon as the term of the

loan has expired.  
([Ord 1053, 2010](#))

#### **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](#)).

#### **6.08.101 Stolen property; Notification; Holding period**

If a pawnbroker has reasonable cause to believe that any property received in the course of his business is property that may have been lost or stolen, the pawnbroker shall immediately report that fact in writing to the Rexburg police department, together with the name of the owner, if known, the date of the transaction, and the name of the party from whom the property was received. The Rexburg police department shall regularly review the records provided by pawnbrokers and provide notice to any pawnbroker whose records show property which appears to be stolen.

- 1) Notice To Hold Property: If a pawnbroker receives written or verbal notification from the Rexburg police department that any item of property has been reported stolen, and the pawnbroker has such item in his possession, the pawnbroker shall hold that property separate, intact and safe from alteration, damage, or commingling with other property, and shall place an identifying tag or other clearly legible identification on the property.
- 2) Preliminary Verbal Notice; Ten Day Hold: Following receipt of verbal notification by a member of the Rexburg police department that an item in his possession might be stolen property, the pawnbroker shall hold the property for a period of ten (10) working days, pending written confirmation from the police department. If a written hold notice is not received within the said ten (10) days, the preliminary hold order shall expire and the pawnbroker shall have no further duty to hold the property.
- 3) Written Notice; Sixty Day Hold: Following receipt of a written notice that an item of property has been stolen, the pawnbroker shall hold the property for sixty (60) days from the date of notification of the stolen status, unless earlier released in writing by the Rexburg police department or by written order of a court of competent jurisdiction. Provided, however, that the item must be surrendered promptly to said police department upon its request. Ten (10) days prior to the expiration of the sixty (60) day holding period, the pawnbroker shall send a written notice to the police department of the impending release date to request approval for release. If the pawnbroker fails to provide the notice, the property shall be held for an additional sixty (60) day period. The Rexburg police department shall respond promptly to the request, in writing, either to state that no further hold is required, or to require an additional holding period. ([Ord. 1053, 2010](#))

#### **6.08.102 Release of held property**

- 1) The police department shall provide written notice as soon as practical to a pawnbroker to release any hold placed on an item suspected of being stolen if it has been

determined that the item was not stolen or lost.

- 2) Whenever property that is being held by a pawnbroker pursuant to the provisions above is required for criminal investigation or criminal proceedings, the Rexburg police department shall provide twenty four (24) hour notice to the pawnbroker who shall produce the property promptly and release it to the department. The Rexburg police department shall provide a receipt for the property containing a description of the property, the reason for the seizure, the criminal case number, if applicable, the name of the pawnbroker and the name of the representative of the police department who accepted possession. The police department shall retain the property pending an order for its disposition from a court of competent jurisdiction. ([Ord. 1053, 2010](#))

#### **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](#)).

#### **6.08.111 Receiving goods from certain persons prohibited**

It is unlawful for any pawnbroker or staff member to receive any property from any person who is intoxicated or under the influence of drugs, or anyone under the age of eighteen (18) years; provided, however, that a pawnbroker and/or his staff may receive sports trading cards in pawn, pledge or for sale from persons under the age of eighteen (18). ([Ord. 1053, 2010](#))

#### **6.08.120 Age of employees and staff**

It is unlawful for any pawnbroker to employ any clerk or person under the age of eighteen (18) years or utilize the services of any person under the age of eighteen (18) years to receive any pledge or make any loan. ([Ord. 1053, 2010](#))

#### **6.08.130 Pawnbroker responsibility for compliance**

The holder of any pawnbroker's license is hereby considered to be responsible for compliance with the provisions of this chapter, and the license shall be subject to revocation or denial of renewal for any and all acts of his employees or other staff in violation of this chapter. ([Ord. 1053, 2010](#))

#### **6.08.140 Penalties**

Any violation of the provisions of this chapter shall be considered a misdemeanor, and in addition to possible revocation or denial of renewal of the license, the pawnbroker shall be subject to the issuance of an Idaho uniform citation for the violation. ([Ord. 1053, 2010](#))

#### **6.08.150 Repeal**

All ordinance and parts of ordinance in conflict with this ordinance are hereby repealed. ([Ord. 1053, 2010](#))

#### **6.08.160 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. 1053, 2010](#))

## **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.

For additional information about the exception please see [Ord. 732 §2\(1\)--\(3\), 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\(4\), 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\(5\), 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\(6\), 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 [here](#). ([Ord. 732 §2\(7\), 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\(8\), 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\(9\), 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\(10\), 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\(11\), 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\(12\), 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\(13\), 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**

#### **6.10.10 Definitions**

For a complete list of the definitions please see [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**

For additional information on this section please see [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 [here](#). 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**

For additional information on this section please see [Ord. 911 §9, 2005](#).

### **6.10.100 Violation – Penalty**

Any person who violates or fails to comply with any of the provisions of this Chapter or who, having obtained a license hereunder, willfully fails to continue to comply with the 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 Chapter 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 Chapter 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, 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**

For a complete list of the definitions please see [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 Chapter or exempted by state law. The charge for such registration shall be as fixed in Section 6.11.070 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**

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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: [Ord. 9](#), and [80](#).

#### **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.

#### **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. 15 §1, 1899](#)).

#### **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: Ord. [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 be provided free of charge for all dogs residing within the City of Rexburg. These licenses shall be valid for the life of the animal on condition that the owner 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 [here](#). ([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 dog; 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 [here](#). ([Ord. 841 §4, 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 [here](#). ([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 [here](#). ([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:

For the exceptions please see [Ord. 841 §7, 2001](#)

- 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](#)).

For additional information on these requirements please see ([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 be 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 [here](#). The fine for violating this section shall be set forth in [here](#). ([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 [here](#). ([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. 1026 §Definitions pg. 12, 2009](#))

#### **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 7.03.020 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: Ord. [15](#), [225](#), and [841](#). [Codified by Ord. 80](#)

#### **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**

For more information on this section please see ([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**

For additional information about this section please see ([Ord. 15 §4, 1899](#)).

**7.04.060 Impounded animals – Notification for redemption or sale at public auction**

For additional information about this section please see ([Ord. 15 §5, 1899](#)).

**7.04.070 Animals sold at auction – Moneys held in trust or paid to general fund**

For additional information about this section please see ([Ord. 15 §7, 1899](#)).

**7.04.080 Impounded animals – Recordkeeping**

For additional information about this section please see ([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.
- 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. For more information on this section please see ([Ord. 841 §10, 2001](#)).

**7.04.110 Impoundment and redemption of unlicensed dogs**

For additional information on this section please see ([Ord. 841 §11, 2001](#)).

**7.04.120 Citation – In lieu of impoundment**

For additional information on this section please see ([Ord. 841 §12, 2001](#)).

#### **7.04.130 Citation – Issuance**

For additional information on this section please see ([Ord. 841 §13, 2001](#)).

#### **7.04.140 Rabies – Quarantine**

For additional information on this section please see ([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 Chapter. ([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 1.02.020](#) of this code. ([Ord. 841 §22, 2001](#)).

### **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**

For additional information about this section please see ([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**

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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](#), amended by [Ord. 599](#), 1979, other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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:

For a complete list of the definitions please see [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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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 §11, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **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 §12, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **8.02.120 Trash burning and other outdoor fires**

- 1) 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 §13, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625, 635, 640, 650, 711](#)).
- 2) Open burning is allowed within the borders of The City of Rexburg, Madison County when three initial criteria are met prior to the burn:

For details please see [Ord. 1041, 2010](#)

Any person who allows or causes open burning without first “Registering their Burn” is guilty of a misdemeanor. ([Ord. 1041, 2010](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625, 635, 640, 650, 711](#)).

#### **8.02.140 Certain materials not collected – Responsibility for disposal**

For more information about this section please see . ([Ord. 559 §14, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625, 635, 640, 650, 711](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625, 635, 640, 650, 711](#)).

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625, 635, 640, 650, 711](#)).

#### **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, amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **8.02.180 Licensing and contracting for collection and disposal – Mayor and council authority**

For additional information about this section please see [Ord. 559 §18, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#).

#### **8.02.190 Inspection authority**

All appropriate officers of the city shall have the right of ingress or egress to any premises . (Ord. 559 §19, 1975, amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)). for the purpose of inspecting all places and containers where refuse is accumulated or kept.

#### **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](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#)).

#### **8.02.210 Fees – Billing and payment procedures**

For more information about this section please see [Ord. 559 §21, 1975](#), amended by [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#), [711](#).

#### **8.02.220 Fees**

For additional information about this section please see [Ord. 711 §§2, 3, 1990](#), Ordinance History: [Ord. 599, 1979](#), other amending ordinances : [625](#), [635](#), [640](#), [650](#)).

#### **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**

For additional information about this section please see [Ord. 599 §2, 1979](#); [Ord. 559 §24, 1975](#).

#### **8.02.250 Violation of chapter provisions – Citation and appearance requirements**

For additional information about this section please see [Ord. 559 §23, 1975](#).

#### **8.02.260 Unauthorized depositing of refuse – Penalty**

For additional information about this section please see [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 than 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. ([Ord. 714 §1, 1991](#); [Ord. 66\(part\), 1903](#)).
- 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 Rexburg City Fire Chief. ([Ord. 714 §3, 1991](#); [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 devices 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 devices, or any other apparatus or devices, which causes radio interference and which can be equipped with devices which eliminate radio interference, be immediately equipped with said devices 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 diminution 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:

For additional information about this section please see [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**

For additional information about this section please see [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 \(1\), 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 \(2\), 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 \(3\), 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\(4\), 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](#)).

## **ARTICLE III “SPICE” A SYNTHETIC CANNABIS AN “INTOXICATING CHEMICAL SUBSTANCE**

### **8.07.080 Intoxicating chemical substances**

1) Definition and application: As used in this ordinance please see:

- a)“Intoxicating chemical substance” shall only mean one or more of the following chemical compounds or their analogs or homologs, whether isolated or contained in any liquid, fiber, paper, powder, solution, herbal or plant material, aerosol, plasma, incense or other medium:
  - i. 1-pentyl-3-(1-naphthoyl) indole (JWH-018); naphthalen-1-yl-(1-butylyndol-3-yl) methanone (JWH-073); 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl)phenol (CP 47,497); OR
  - ii. any artificial chemical substance simulating, copying to a significant degree, or emulating any of the compounds listed in section 1(a)(i) of this ordinance, or any substance regulated or governed by Idaho Code Title 37, Chapter 27, which substance itself is not presently regulated by that Chapter, capable of causing a condition of intoxication, inebriation, excitement, stupefaction or the dulling of the brain or nervous system as a result of the ingestion, injection into the bloodstream, or inhalation of the fumes or vapors of such chemical substance; OR
  - iii. for purposes of sections II(1)(a), II(1)(b) and II(1)(d) only, any substance or product labeled “Not for Human Consumption,” or any other label warning against humans introducing that substance or product into the body.
- b)“Paraphernalia” shall mean all equipment, products and materials of any kind which are used, intended for use, or designed for use, in injecting, ingesting, inhaling, or otherwise introducing into the human body, an “intoxicating chemical substance” (as that term is defined herein).
- c) Application. Nothing in this ordinance shall be construed to include, govern over, or regulate any controlled substance or item of drug paraphernalia regulated by the

provisions of Idaho Code Title 37, Chapter 27, the Uniform Controlled Substances Act. ([Ord. 1058 §1, 2010](#))

#### **8.07.090 Abuse of an intoxicating chemical substance**

A person is guilty of abuse of intoxicating chemical substances if:  
For additional information please see [Ord. 1058 §2, 2010](#)

#### **8.07.100 Delivery of an intoxicating chemical substance**

A person is guilty of delivery of an intoxicating chemical substance if that person offers, sells, delivers, or provides an intoxicating chemical substance to another person or entity. ([Ord. 1058 §3, 2010](#))

#### **8.07.110 Manufacture of an intoxicating chemical substance**

A person is guilty of the manufacture of an intoxicating chemical substance if that person creates, manufactures, cultivates, transports, produces, or processes an intoxicating chemical substance. ([Ord. 1058 §4, 2010](#))

#### **8.07.120 Penalties**

For additional information about any person who violates this ordinance please see [Ord. 1058 §5, 2010](#))

### **CHAPTER 8.08 TREES AND PLANTS**

#### **8.08.010 Definitions**

For additional information on this section please see [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 Chapter 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 Chapter, the City Tree Commission, is hereby authorized to carry out the following duties:

- 1) Administrative/Management Duties

For a detailed list please see [Ord. 919 §4, 2004](#)

- 2) Tree Planting Duties

For a detailed list please see [Ord. 919 §4, 2004](#)

3) Tree Maintenance Duties

For a detailed list please see [Ord. 919 §4, 2004](#)

4) Tree Removal Duties

For a detailed list please see [Ord. 919 §4, 2004](#)

5) Tree Protection Duties

For a detailed list please see [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

For a detailed list please see [Ord. 919 §5, 2004](#).

2) Responsibilities for private trees

For a detailed list please see [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:

For additional information please see [Ord. 919 §6, 2004](#)

1) Permit Application Procedures

For additional information please see [Ord. 919 §6, 2004](#)

2) Public Tree Planting Permits – Requirements

For additional informationa please see [Ord. 919 §6, 2004](#)

3) Tree Pruning/Removal Permits – Requirements

For additional informationa please see [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 here. ([Ord. 867 §7, 2002](#)).

## **CHAPTER 8.10 CLEAN AIR – BOWLING ALLEYS**

### **8.10.010 Purpose**

The purpose of this Chapter 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 Chapter. ([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 [here](#).
- 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 [here](#), in conjunction with any other sentence or costs deemed appropriate by the Court. ([Ord. 931 §4, 2005](#)).

## **CHAPTER 8.11 COMMUNITY SAFETY LIGHTING**

### **8.11.010 Community Safety Lighting Established**

- 1) In the interest of maintaining safe streets for pedestrian use, as well as accommodating public utility functions such as garbage collection, snow removal, and other water and wastewater services during the non-daylight hours, the City of Rexburg hereby establishes a street lighting system intended to create safe travel and protection of property within the corporate limits of the City of Rexburg.
- 2) Projects, shown on the attached and hereby incorporated Community Safety Lighting Resolution, shall be priority projects for purposes of this Chapter. ([Ord. 1025 §1, 2009](#)).

### **8.11.020 Criteria and Standards**

The following streetlight criteria and standards have been applied and shall hereafter apply to provide uniform lighting within each zone sufficient for public safety and the protection of improved real property:

- 1) In the arterial illumination zone, lights shall be placed at all intersections and at all highway overpasses; provided, however, that the placement of such lights shall be

determined by the city engineer in conformance with the policies and purposes expressed in this chapter.

- 2) In moderate and high illumination intensity zones lights shall be placed at every intersection where practical. Where blocks are longer than one thousand feet (1,000'), an additional light shall be placed near the middle of the block.
- 3) In the residential illumination intensity zone, lights shall be placed at intersections where practical. Where blocks exceed six hundred feet (600') in length, lights shall, where practical, be placed so that no property frontage is a distance of more than three hundred feet (300') from the nearest light. ([Ord. 1025 §2, 2009](#)).

#### **8.11.030 Costs**

- 1) The costs of all street lighting within the City of Rexburg shall be financed by charges assessed to the owners and occupants of improved real property. The charges assessed shall be included in the general utility billing as a separate item and as set forth in this Chapter; provided, however, that the costs of installing lighting to illuminate parks and playfields shall be excluded and paid from the City General Fund.  
For additional information please see [Ord. 1025 §3, 2009](#)
- 2) Improved real property, within the meaning of this Chapter, shall include real estate which:  
For additional information please see [Ord. 1025 §3, 2009](#)
- 3) Exceptions to the category of improved real property shall include:  
For additional information please see [Ord. 1025 §3, 2009](#)
- 4) Street lighting charges provided in this chapter are assessed to the owners and/or occupants of improved real property. ([Ord. 1025 §3, 2009](#)).

#### **8.11.040 Where Minimum Lighting Standards Not Met**

In areas where the lighting does not meet the minimum lighting standards as provided in this Chapter, proper lights shall be installed to meet such standards as soon as practicable. ([Ord. 1025 §4, 2009](#)).

#### **8.11.050 Service Charges Assessment**

- 1) The owners and occupants of all improved real property within the City of Rexburg are assessed service charges for street lighting in an amount consistent with the attached and hereby incorporated Resolution of Community Safety Lighting Fee.
- 2) For the purposes of this Chapter, residential property shall include property having one or two single family occupancy of living accommodations on a permanent or semi-permanent basis, but shall exclude institutional living arrangements involving special types of care or forced residence and also excluding more than two living units, dormitory style accommodations or hotel/motel type living accommodations.

- 3) Where improved real property with only one water service is used, both as residential property and nonresidential property, the property shall be considered nonresidential improved real property.
- 4) Such service charges are assessed, effective June 04, 2009. The owners and occupants of improved real property shall be jointly and severally liable for such charges and the charges shall become a lien upon and against the property against which the charge is levied to the extent permitted by the laws of the State of Idaho and the ordinances of the City of Rexburg and may be collected in any manner permitted or hereafter permitted by such laws and ordinances.
- 5) The foregoing charges are fixed and determined in amounts determined sufficient to pay the costs of street lighting within the City of Rexburg. Such charges shall be changed or amended by the City Council from time to time, as determined necessary to finance such street lighting costs. Any changes or amendments to such service charges may be made and fixed by the City Council by resolution. Three (3) copies of such resolution, duly certified by the City Clerk, shall be kept on file in the office of the City Clerk for the use of and examination by the public. ([Ord. 1025 §5, 2009](#)).

#### **8.11.060 Computation of Charges**

Street lighting service charges shall from time to time be amended, in accordance with all applicable rules and regulations, and set forth in the form of a fee resolution established by the City in their capacity of providing for safe streets within the City of Rexburg. ([Ord. 1025 §6, 2009](#)).

### **CHAPTER 8.12 SECURITY ALARMS OF BUSINESSES AND HOMES**

#### **8.12.010 Purpose**

The purpose of this Chapter is to reduce the number of false security alarms, thereby reducing the costs to the City and the burden on police services arising from an increasing number of false security alarms, and diminishing the risk of harm to officers and the public. By regulating security alarm businesses and systems, the City seeks to encourage well-maintained and accurate security alarms while improving the ability of police to respond quickly to critical calls. ([Ord. 1090 §1, 2009](#)).

#### **8.12.020 Definitions**

For the purposes of this Chapter, the following terms, phrases, and words, and derivations thereof, shall have the meanings given in this section.

**ALARM COMPANY:** Any persons engaged in the business of selling, installing, maintaining, servicing, repairing, altering, replacing, or moving an Alarm System in businesses or residences located within the City, as well as any persons engaged in the business of monitoring alarm systems located within the City and summoning police response to activations thereof.

**ALARM OFFICER:** The Chief of the Rexburg Police Department or his or her designee.

**ALARM SYSTEM:** Any mechanism, equipment, or device which is designed to detect an unauthorized entry into any building or onto any property, or to direct attention to a robbery, burglary, or other emergency in progress, and to signal the above occurrences either by local or audible alarm or by silent or remote alarm.

**ALARM USER:** Any person who owns and renders operable any alarm system or who contracts for the servicing or maintenance of an alarm system within any building, structure, or property located within the City.

**AUDIBLE ALARM:** An alarm system which when activated generates sound or signal that is audible from the immediate vicinity of the premises where the alarm system is located.

**AUTOMATIC DIALING DEVICE:** An alarm system which automatically contacts the City of Rexburg or any law enforcement dispatch service thereof by sending, over a telephone line, by direct connection, internet, or otherwise, a pre-recorded voice message or coded signal indicating the existence of an emergency situation.

**CALENDAR YEAR:** The period between and including January 1 and December 31 of any given year.

**CITY:** The City of Rexburg, Idaho.

**EMERGENCY:** Any condition, including but not limited to fire, smoke, or the commission or attempted commission of a robbery, burglary, or other criminal action, which requires or is expected to require a response from police or public safety personnel.

**FALSE ALARM:** The activation of an alarm system under conditions which the responding officer cannot reasonably determine to have been an emergency. False alarms include, but are not limited to: alarms resulting from user error of any kind, alarms caused by faulty, inappropriately selected, or poorly installed equipment, and alarms set off by conditions of nature which are normal for the area. False alarms shall not include alarms caused by unusual natural occurrences such as hurricanes, tornadoes, earthquakes, or by other extraordinary circumstances determined by the alarm officer to be clearly beyond the control of the alarm user.

**PERSON:** Any individual, partnership, association, corporation, limited liability company, trust, or organization of any kind, including a government entity or political subdivision thereof. ([Ord. 1090 §2, 2009](#)).

### **8.12.030 Duties of Alarm Companies**

For the complete list of the Alarm Companies Duties please see [Ord. 1090 §3, 2009](#).

#### **8.12.40 Duties of Alarm Users**

For the complete list of the Alarm Users Duties please see [Ord. 1090 §4, 2009](#).

#### **8.12.050 False Alarms; Penalties**

Following a police visit to any structure or property in the City in response to a false alarm, the City shall be authorized to impose the following penalties and requirements on the alarm user responsible for the alarm system that triggered the false alarm. For the complete list of the penalties please see ([Ord. 1090 §5, 2009](#)).

#### **8.12.060 Violations**

Any person who violates any provision of this Chapter shall be guilty of a misdemeanor. ([Ord. 1090 §6, 2009](#)).

## **TITLE 9 PUBLIC PEACE, MORALS AND WELFARE**

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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 §18-2501](#) 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](#), amended by [Ord. 714](#)).

#### **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**

For additional information on this section please see [Ord. 801 §2, 1997](#) (History: [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 a misdemeanor. ([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:

For a complete list of requirements please see [Ord. 801 §6, 1997](#); [Ord. 789 §6, 1996](#)

- 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\(part\), 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 the preceding section, 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 of the city for trial. ([Ord. 80 §69, 1904](#)).

### **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, 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 whereby 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 [here](#). ([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**

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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 §3\(1\), 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 §3\(3\), 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:

For the complete list of the definition please see [Ord. 482 §1, 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 §49-604](#) et seq.; for provisions requiring that all motor vehicles driven upon the highways of the state be registered and licensed, see [Idaho Code §49-402](#); for provisions concerning stopping when approaching a school bus with the stop arm extended, see [Idaho Code §49-1422](#).

#### **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 §3\(2\), 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\(2\), 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 §3\(4\), 1968](#)).

#### **10.03.040 Obedience by police officers**

The provisions of this Chapter 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 Chapter, and subject to such exemptions as are set forth in this Chapter with reference to authorized emergency vehicles. ([Ord. 482 §3\(5\), 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 §2\(3\), 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 §2\(4\), 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 §2\(5\), 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 §2\(6\), 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 §2\(7\), 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 §2\(8\), 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 §11\(2\), 1968](#)).

#### **10.03.120 Exemption of persons and equipment working on streets**

Unless specifically made applicable, the provisions of this Chapter 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 §3\(6\), 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 Chapter.
- 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 of 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 §3\(7\), 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 Chapter, except those provisions of this Chapter which by their very nature can have no application. ([Ord. 482 §3\(8\), 1968](#)).

### **10.03.150 Driving under the influence**

For additional information on this section please see [Ord. 482 §12\(1\), 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 §12\(2\), 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 §12\(3\), 1968](#)).

### **10.03.175 Texting on hand held devices**

It shall be unlawful for any person to use a hand-held wireless telephone, cellular telephone, or any other wireless device for texting purposes while operating a motor vehicle within the City of Rexburg. No pedestrian shall use a hand-held telephone, cellular telephone, or any other wireless device for texting while crossing a public right-of-way in the City of Rexburg. Offenses shall be punishable by a fifty (\$50) dollar fine on the first offense and a one-hundred and fifty (\$150) dollar fine on each subsequent offense.

Such restriction does not apply to a person texting using a hand-held wireless telephone, cellular telephone, or any other wireless device for emergency purposes, including, but not limited to, texting an emergency message to a law enforcement agency, health care provider, fire department, or other emergency services agency or entity.

Such restriction does not apply to an emergency services professional using a hand-held wireless telephone, cellular telephone, or any other wireless device for texting while operating an authorized emergency vehicle, in the course and scope of his or her duties. Such restriction does not apply to a person texting while driving a motor vehicle on private property. ([Ord. 1062, 2011](#))

## **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 Chapter, 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 §13\(1\), 1968](#)).

### **10.03.190 Traffic citations**

Whenever a person is halted by a police officer for violation of this Chapter 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 §13\(2\), 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 §13\(3\), 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 §13\(4\), 1968](#)).

#### **10.03.220 Arrest without warrant**

The foregoing provisions of section 10.03.210 shall govern all police officers in making arrests without a warrant for violations of this Chapter, 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 §13\(6\), 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 §13\(7\), 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

Chapter or by the laws of the State, or which is equipped in any manner in violation of this Chapter or the laws of the State. ([Ord. 482 §5\(1\), 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 Chapter.
- 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 Chapter.
- 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 §5\(2\), 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 so 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 §5\(3\), 1968](#)).

#### **10.04.040 Additional equipment required on certain vehicles**

In addition to other equipment required in the Chapter, the following vehicles shall be equipped as hereinafter stated, during the hours when lighted lamps are required by the Chapter:

For additional information about the required equipment for different vehicles please see [Ord. 482 §5\(4\), 1968](#).

#### **10.04.050 Color of lamps and reflectors**

For additional information about this section please see [Ord. 482 §5\(5\), 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 §5\(6\), 1968](#)).

#### **10.04.070 Lamps on parked vehicles**

For additional information about this section please see [Ord. 482 §7\(7\), 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 feet (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 §5\(8\), 1968](#)).

#### **10.04.090 Brakes**

For additional information about this section please see [Ord. 482 §5\(9\), 1968](#).

#### **10.04.100 Horns and warning devices**

For additional information about this section please see [Ord. 482 §5\(10\), 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 §5\(11\), 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 §5\(12\), 1968](#)).

#### **10.04.130 Windshields**

For additional information about this section please see [Ord. 482 §5\(13\), 1968](#).

#### **10.04.140 Fenders and splash aprons**

For additional information about this section please see [Ord. 482 §5\(14\), 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 §11\(4\), 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 §10\(1\), 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 §10\(2\), 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 §11\(3\), 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:

For a complete list of exceptions please see [Ord. 482 §7\(1\), 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 §7\(2\), 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;

For additional information about this section please see [Ord. 482 §7\(3\), 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 §7\(5\), 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:

For a list of these conditions please see [Ord. 482 §7\(4\), 1968](#).

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 §7\(4\), 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 §11\(5\), 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:

For a complete list of the rules please see [Ord. 482 §7\(6\), 1968](#).

#### **10.05.110 Following too closely**

For additional information about this section please [Ord. 482 §7\(7\), 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 §7(8), 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:

For driver`s responsibilities when intending to turn please see [Ord. 482 §7\(9\), 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 §7\(10\), 1968](#)).

**10.05.150 Turning movements and required signals**

For additional information about this section please see [Ord. 482 §7\(11\), 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 §7\(12\), 1968](#)).

**10.05.170 Vehicle approaching or entering intersection**

For additional information about this section please see [Ord. 482 §7\(13\), 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 Chapter, 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 §7\(14\), 1968](#)).

**10.05.190 Vehicle entering-stop or yield intersection**

For additional information about this section please see [Ord. 482 §7\(15\), 1968](#).

**10.05.200 Vehicle entering-stop or yield intersection with crosswalk**

For additional information about this section please see [Ord. 482 §7\(15\), 1968](#).

### **10.05.210 Operation of vehicles on approach of authorized emergency vehicles**

For additional information about this section please see [Ord. 482 §7\(16\), 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 §10\(3\), 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 §10\(4\), 1968](#)).

### **10.05.240 Manner of parking**

Except as otherwise provided in this Chapter, 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 §9\(7\), 1968](#)).

### **10.05.250 Depositing glass or debris on streets**

For additional information about this section please see [Ord. 482 §11\(part\), 1968](#).

## **CHAPTER 10.06 PARKING METERS**

### **10.06.010 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 be 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\(A\), 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\(B\), 1999](#)).

#### **10.06.030 Installation**

For additional information about this section please see [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**

For additional information about this section please see [Ord. 818A §18, 1999](#).

#### **10.06.080 No charge exceptions**

For additional information about this section please see [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:  
For the list of where you can be granted this permission please see [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**

For additional information about this section please see [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 §4\(1\), 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 §4\(2\), 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 §4\(3\), 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:

For additional information about these traffic signs please see [Ord. 482 §4\(4\), 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: For additional information about these signs please see [Ord. 482 §4\(5\), 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:

For additional information about these signals please see [Ord. 482 §4\(6\), 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 §4\(7\), 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 §4\(8\), 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 §6\(1\), 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 §6\(2\), 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 §6\(3\), 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 §6\(4\), 1968](#)).

#### **10.08.050 Minimum speed regulations**

For additional information about this section please see [Ord. 482 §6\(5\), 1968](#).

#### **10.08.060 Charging violations of speed regulations**

For additional information about this section please see [Ord. 482 §6\(6\), 1968](#).

### **CHAPTER 10.09 STOPPING, STANDING AND PARKING**

[Ordinance 818A](#) known as “The Standing, Stopping and Parking Ordinance” of the City of Rexburg is hereby replaced by [Ordinance 1094](#) known as “The Standing, Stopping and Parking Ordinance – Replacing Ordinance 818A and Ordinance 1028” as follows:

#### **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. 1094 §1, 2012](#)).

#### **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. 1094 §2, 2012](#)).

#### **10.09.030 Registration of vehicle plates**

(A) Every vehicle at all times while being driven, stopped or parked upon the streets or alleys or publicly managed parking lots of the City of Rexburg, shall (1) be registered in the name of the owner thereof in accordance with the laws of the State of Idaho, unless such vehicle is not required by the laws of Idaho to be registered; (2) display in proper location and position, valid registration plates for the state from which the same are issued; (3) not constitute an obstruction to the free flow of traffic in accordance with the designed intent of the streets or alleys or publicly managed parking lots of the City of Rexburg; (4) not constitute a nuisance, defined for purposes of this Ordinance as any vehicle having four (4) or more unresolved violations of any provisions of this Ordinance or Parking Ordinance 1094. ([Ord. 1101 §1\(A\), 2013](#))

(B) Any vehicle in violation of any of the above cited requirements of this Section, may be towed from the streets or alleys or publicly managed parking lots of the City of Rexburg at

the owner's expense, and held until all unresolved violations pertaining to the nuisance vehicle have been fully resolved. ([Ord. 1101 §1\(B\), 2013](#))

**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. 1094 §4, 2012](#)).

**10.09.050 Parking signs required**

When by this code or any other ordinance of the city, 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. 1094 §5, 2012](#)).

**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 neither 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. 1094 §6, 2012](#)).

**10.09.070 Lights on parked vehicles**

For additional information about this section please see [Ord. 1094 §7, 2012](#).

**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. 1094 §8, 2012](#)).

**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. 1094 §9, 2012](#)).

**10.09.100 Disabled parking – Public property**

For additional information about this section please see [Ord. 1094 §10, 2012](#).

**10.09.110 Disabled parking violation enforcements**

For additional information about this section please see [Ord. 1094 §11, 2012](#).

**10.09.120 Disabled parking – Out-of-state vehicles**

The parking privileges granted by Sections 10.090.100 and 10.09.110 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. 1094 §12, 2012](#)).

**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. 1094 §13, 2012](#)).

**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. 1094 §14, 2012](#)).

**10.09.150 Residential parking lots owned by the city**

For additional information about this section please see [Ord. 1094 §15, 2012](#).

**10.09.160 No stopping or parking – Color markings and signs**

For additional information about this section please see [Ord. 1094 §16, 2012](#).

**10.09.170 Public carrier and bus stands**

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. 1094 §17, 2012](#)).

**10.09.180 Public carrier and bus stands**

For additional information about this section please see [Ord. 1094 §18, 2012](#).

**10.09.190 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 be 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. 1094 §19, 2012](#)).

**10.09.200 Buses and taxicabs – Parking restrictions**

The driver of a bus or taxicab shall not park upon any street upon which parking is prohibited, restricted, or limited as to time, 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. 1094 §20, 2012](#)).

**10.09.210 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. 1094 §21, 2012](#)).

**10.09.220 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. 1094 §22, 2012](#)).

**10.09.230 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. 1094 §23, 2012](#)).

**10.09.240 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. 1094 §24, 2012](#)).

**10.09.250 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. 1094 §25, 2012](#)).

**10.09.260 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. 1094 §26, 2012](#)).

**10.09.270 Stopping or parking – Roadways without curb**

For additional information about this section please see [Ord. 1094 §27, 2012](#).

**10.09.280 Stopping or parking – Prohibited in certain areas**

For additional information about this section please see [Ord. 1094 §28, 2012](#).

**10.09.290 Time-limited parking on certain streets**

For additional information about this section please see [Ord. 1094 §29, 2012](#).

**10.09.300 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. 1094 §30, 2012](#)).

**10.09.310 Prohibited parking for restricted vehicles**

For additional information about this section please see [Ord. 1094 §31, 2012](#).

**10.09.320 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. 1094 §32, 2012](#)).

**10.09.330 Parking prohibited – Locations**

For additional information about this section please see [Ord. 1094 §33, 2012](#).

**10.09.340 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. 1094 §34, 2012](#)).

**10.09.350 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. 1094 §35, 2012](#)).

**10.09.360 Parking for certain purposes prohibited**

For additional information about this section please see [Ord. 1094 §36, 2012](#).

**10.09.370 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. 1094 §44, 2012](#)).

**10.09.380 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. 1094 §45, 2012](#)).

**10.09.390 Unauthorized use of Streets, parking lots and other areas – Penalties**

For additional information about this section please see [Ord. 1094 §46, 2012](#).

**10.09.400 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. 1094 §47, 2012](#)).

**10.09.410 Unauthorized use of streets – Appeal procedures**

For additional information about this section please see [Ord. 1094 §48, 2012](#).

**10.09.420 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 there from. ([Ord. 1094 §51, 2012](#)).

**ARTICLE I RESTRICTIONS GENERALLY**

**10.09.430 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 , 1968](#)).

**10.09.440 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 §9\(6\), 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. 1026 §3.4.130\(2\), 2005](#)).

**10.09.450 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 §9\(5\)part, 1968](#)).

**10.09.460 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 §9\(5\)part, 1968](#)).

**10.09.470 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 §9\(9\), 1968](#)).

**10.09.480 Vehicles parked in violation of Section 10.09.470 – 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 10.09.470 above. ([Ord. 482 §9\(10\), 1968](#)).

**10.09.490 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 §9\(11\), 1968](#)).

**10.09.500 No parking on portion of North Second East Street**

For additional information about this section please see [Ord. 620 §§1--3, 1980](#).

**ARTICLE II PARKING AND LOADING ZONES**

**10.09.510 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](#)).

**10.09.520 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](#)).

#### **10.09.530 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](#)).

#### **10.09.540 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](#)).

#### **10.09.550 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](#)).

#### **10.09.560 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](#)).

#### **10.09.570 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](#)).

#### **10.09.580 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 [here](#) ([Ord. 704 §1, 1990](#); [Ord. 537 §9, 1973](#)).

#### **10.09.590 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](#)).

**10.09.600 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](#)).

**10.09.610 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](#)).

**10.09.620 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](#)).

**10.09.630 Freight curb loading zones**

For additional information about this section please see [Ord. 818A §29, 1999](#).

**ARTICLE III PARKING REGULATIONS**

**10.09.640 Dormitory Housing Units**

Parking requirements for dormitory housing units that are located within the Pedestrian Enhancement Zone (PEZ) (see attached boundaries) may be reduced subject to the following requirements and provisions:

For a complete list of these requirements and provisions please see [Ord. 1115, §9, 2014](#).

## **ARTICLE IV RESIDENTIAL UNIVERSITY ON STREET PARKING**

### **10.09.650 University On-Street Parking**

For additional information about this section please see [Ord. 1028 §1, 2009](#).

### **10.09.660 Campus Vicinity Residential Parking**

For additional information about this section please see [Ord. 1028 §2, 2009](#).

### **10.09.670 Downtown Commercial Residential Parking**

For additional information about this section please see [Ord. 1028 §3, 2009](#).

### **10.09.680 General Rules**

For additional information about this section please see [Ord. 1028 §4, 2009](#).

### **10.09.690 Penalties and Effective Date**

Any person, firm or corporation violating any provision of this chapter shall, upon conviction thereof, be guilty of a misdemeanor, and be punishable by a fine not to exceed Three Hundred Dollars (\$300.00) or by imprisonment for not more than six (6) months of by both such fine and imprisonment. In addition, the City shall have the right to remove any violator of this Chapter in accordance with applicable Local, State and Federal rules, regulations and Ordinances at their discretion, and the cost of so doing shall be the responsibility of the violator or the registered owner of a vehicle removed under this Chapter. ([Ord. 1028 §5\(A\), 2009](#)).

## **ARTICLE V FIRE LANES OR HAZARDOUS AND CONGESTED AREAS**

### **10.09.700 Standing or parking within access roadways for fire apparatus**

For additional information about this section please see [Ord. 700 §2, 1990](#).

### **10.09.710 No stopping, standing or parking near hazardous or congested places or within non-parking zones**

For additional information about this section please see [Ord. 752 §1, 1993](#); [Ord. 700 §2, 1990](#).

### **10.09.720 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 §49-1804](#).

**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**

For additional information about this section please see [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 fifteenth (15) day of December of each year and the first (1<sup>st</sup>) day of March of the following year upon any street or alley in the City of Rexburg, Idaho, between the hours of 2:00 A.M. and 7:00 A. M. ([Ord. 1030 §1, 2009](#)).

**10.10.050 Use of certain streets and alleys restricted – From November 1<sup>st</sup> through March 1<sup>st</sup>**

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 Definitions**

- 1) Bike Lane: A portion of a roadway designated for exclusive use by bicycles distinguished from the portion of the roadway to be used by motor vehicles by a painted stripe and other pavement markings. Bike lanes shall be at least 5-feet (5') wide and, as feasible, shall be kept clear of debris.
- 2) Shared Use Path: A pathway completely separate from roadways for use by bicyclists and pedestrians. Shared use paths shall be at least 10-feet (10') wide and be free from physical obstructions such as poles, trees, mailboxes, etc. They should have a minimum of 2-feet (2') separation from adjacent roadways. ([Ord. 1017 §1, 2009](#)).

#### **10.11.020 Traffic Laws Applying to Persons Riding Bicycles**

For additional information about this section please see [Ord. 1017 §2, 2009](#).

#### **10.11.025 Speed**

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing. ([Ord.1017 §2.5, 2009](#)).

#### **10.11.030 Riding on Roadways**

For additional information about this section please see [Ord. 1017 §3, 2009](#).

#### **10.11.040 Using Provided Bike Lanes and Shared Use Paths**

For additional information about this section please see [Ord. 1017 §4, 2009](#).

### **10.11.050 Riding on Sidewalks and Within Crosswalks**

For additional information about this section please see [Ord. 1017 §5, 2009](#).

### **10.11.060 Stopping-Stop Signs and Traffic Lights**

For additional information about this section please see [Ord. 1017 §6, 2009](#).

### **10.11.070 Riding in Groups**

Persons riding bicycles shall not ride more than two (2) abreast except upon shared use paths with widths of 12 feet (12') or more. Bicyclists operating two (2) abreast upon a roadway, or shared use path, shall move to a single file configuration when a vehicle approaches from behind in the same lane. ([Ord. 1017 §7, 2009](#)).

### **10.11.080 Bicycle Parking**

Bicycles shall not be parked in such a manner as to obstruct or impede the movement of pedestrians, motor vehicles, or other bicycles, or to cause damage to trees, shrubs or other living plants. When bike racks exist nearby, they shall be the preferred location for bicycle parking. ([Ord. 1017 §8, 2009](#)).

### **10.11.090 Group Events**

A bicycle race, parade or other group event for bicyclists may be conducted upon public rights-of-way in the City of Rexburg if a permit is obtained. Permit applications shall be made through the office of the City Clerk. ([Ord. 1017 §9, 2009](#)).

### **10.11.100 Brakes**

No person shall operate a bicycle without brakes capable of causing the bicycle to stop within twenty-five feet (25') at ten (10) miles per hour on dry, level, clean pavement. ([Ord. 1017 §10, 2009](#)).

### **10.11.110 Light and Reflector Required in Darkness**

Every bicycle in use in darkness (from sunset to sunrise and when visibility is under 500 feet) shall be operated with a white light visible from a distance of at least five hundred feet (500') to the front and with a red reflector clearly visible from the rear of the bicycle and two square inches of side reflectors displayed on the sides of each wheel consistent with quality of the rear reflector. ([Ord. 1017 §11, 2009](#)).

## **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 §11\(1\) \(A\), 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 §11\(1\) \(B\), 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 §8\(1\), 1968](#)).

### **10.13.020 Right-of-way in crosswalks**

For additional information about this section please see [Ord. 482 §8\(2\), 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 §8\(3\), 1968](#)).

### **10.13.031 Texting on hand held wireless devices in a crosswalk**

No pedestrian shall use a hand-held wireless telephone, cellular telephone, or any other wireless device for texting while crossing a public right-of-way in the City of Rexburg. ([Ord. 1062 §2, 2011](#))

### **10.13.040 Pedestrians to use right half of crosswalks**

Pedestrians shall move, whenever practicable, upon the right side of crosswalks. ([Ord. 482 §8\(5\), 1968](#)).

### **10.13.050 Drivers to use due care**

Notwithstanding the foregoing provisions of this Chapter, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian upon any street. ([Ord. 482 §8\(4\), 1968](#)).

### **10.13.060 Pedestrians on roadways**

For additional information about this section please see [Ord. 482 §8\(6\), 1968](#).

## **CHAPTER 10.14 RAILROADS**

### **10.14.010 Grade crossing – Obedience to signal**

For additional information about this section please see [Ord. 482 §9\(1\), 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 City of Rexburg, Fremont County, State of Idaho, and said Railroad Company, its successors and assigns are hereby granted permission and authority to lay out, construct and perpetually maintain its railroad, including switches, side-tracks, and other appurtenance 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 tract 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 tract 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, as shown by the tracing map of said located line through the said City of Rexburg, which map is hereto attached and made a part of this Chapter. ([Ord. 80 Chapter 16 §145, 1904](#)).

#### **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 City 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 City 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 City which may be affected by the construction of their railroads; such construction and repairs to be done subject to the approval of the City board. ([Ord. 13 §1, 1899](#)).

#### **10.14.090 Railroad street crossings required**

It shall be incumbent on all railroad 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 City Council 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 City Council.. ([Ord. 80 Chapter 7 §51, 1904](#) ).

#### **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 City Council; 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 the City of Rexburg, and the bells on locomotives in motion shall in all cases be rung continuously in the inhabited portions of the city, 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 five minutes. ([Ord. 80 Chapter 12 §52\(part\), 1904](#) ).

#### **10.14.110 Violation – Penalty**

Any engineer, train or yard master, switchman or other person in charge or control of such locomotive, cars or trains violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in any sum not exceeding seventy-five dollars, or be imprisoned not exceeding thirty days, or both fine and imprisonment, together with costs of prosecution. ([Ord. 80 Chapter 12 §52\(part\), 1904](#) ).

### **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, 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 10.15.300 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**

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### **CHAPTER 11.01 CABLE ONE (10 YEARS)**

#### **11.01.010 Grant of franchise**

The Ordinance grants to Cable One, 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 Ordinance is the date of its passage, approval and final publication. A copy of the full text of the Ordinance is available at City Hall, 35 North 1<sup>st</sup> East, 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 5:00 p.m. pursuant to the Open Records Act, [Idaho Code, Title 9, Chapter 3](#). ([Ord. 1057, 2010](#))

#### **11.01.020 Term**

Term of Agreement: December 6<sup>th</sup>, 2010 to December 7<sup>th</sup>, 2020

### **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](#)).

**CHAPTER 11.04 FALL RIVER RURAL ELECTRIC**

**11.04.010 Grant of Franchise**

The City hereby grants to Fall River Rural Electric 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. 1007 §1, 2008](#)).

**11.04.020 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 as set forth in Section 3 below. ([Ord. 1007 §2, 2008](#)).

## **TITLE 12 STREETS, SIDEWALKS AND PUBLIC PROPERTY**

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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 current edition of 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\(part\)](#))

#### **12.01.021 Standards for Public Works Construction and Supplemental Conditions**

The City of Rexburg adopts the standards and specification set forth in the current edition of the Idaho Standards for Public Works Construction and Supplemental Conditions - 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.

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. The terms of this resolution, if in conflict with any existing Ordinances or Resolutions, shall be controlling. Specifically, this Resolution applies to [Ordinance No. 658](#) (Rexburg Subdivision Ordinance). ([Resolution No. 2008-17](#))

#### **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 corporate limits of the City of Rexburg ([Ord. 1019 Art I §2, 2009](#)).

#### **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 12.01.100 below. ([Ord. 1019 Art I §4, 2009](#)).

#### **2.01.091 Advertisement on Sidewalks**

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 12.01.100 below. ([Ord. 1019 Art I §5, 2009](#)).

#### **12.01.100 Business upon public sidewalks – Exceptions**

Notwithstanding Sections 12.01.060, 12.01.070, 12.01.080, 12.01.090, and 12.01.091 above, 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 respective places of business. The merchandise so displayed shall be confined within an area extending from the store front toward the street line no more than ½ the total width, and under no circumstance shall the display area extend any closer than five (5) feet from the street line, and shall not cover any more than a total of one half (1/2) of the total area of sidewalk in front of the business. Nothing herein contained shall allow for placement of merchandise in such a manner as to require, or encourage pedestrians to walk upon the street. ([Ord. 1019 Art I §6, 2009](#)).

#### **12.01.110 Indemnifying liability**

Any licensed merchant or other person conducting a lawful business in the commercial area, may for the purpose of displaying goods, wares and merchandise, petition the City of Rexburg for permission to engage in such conduct on a regular basis provided that said merchant, shall first be required to indemnify the City of Rexburg from any and all liability by reason thereof to the extent of \$500,000.00 for any one accident and to file proof with the City of such liability insurance indemnifying the City of Rexburg, and the same restrictions as set forth above in Section E shall apply as to placement. Provided that any such display of merchandise shall be removed at the end of each business day or during any period when the adjacent business is not open for business. ([Ord. 1019 Art I §7, 2009](#)).

#### **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. 1019 Art I §8, 2009](#)).

#### **12.01.130 Violation – Penalty**

Any person, firm or corporation violating any provision sections 12.01.070-12.01.110 shall, upon conviction thereof, be guilty of a misdemeanor, and 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 such fine and imprisonment. In addition, the City shall have the right to remove the obstruction at their discretion, and the cost of so doing shall be added to the monthly utility billing sent out by the City to the appropriate property owner or account holder. ([Ord. 1019 Art III §3, 2009](#)).

#### **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, 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 curblin e 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 curblin e 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**

For additional information on this section please see [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:

For a complete list of these acts please see [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. 1019 Art I §2, 2009](#)).

#### **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. 1019 Art I §4, 2009](#)).

#### **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. 1019 Art I §5, 2009](#)).

#### **12.05.040 Public use of sidewalks – Exceptions**

For additional information please see [Ord. 1019 Art I §6, 2009](#).

#### **12.05.050 Liability insurance – Required**

For additional information please see [Ord. 1019 Art I §7, 2009](#).

#### **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. 1019 Art I §8, 2009](#)).

#### **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. 1019 Art III §1, 2009](#).

## **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](#)).

#### **12.06.60 ternative permit**

For additional information on this section please see [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**

For additional information on the prohibitions and regulations for activities requiring a permit please see [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](#)).

## **CHAPTER 12.07 SIDEWALK ACCESS**

### **12.07.010 Sidewalk Access**

For additional information on this section please see [Ord. 1019 Art I, 2009](#).

### **12.07.020 Sidewalk Standards and Specifications**

For additional information on this section please see [Ord. 1019 Art II, 2009](#).

### **12.07.030 Penalties and Effective Date**

- 1) Any person, firm or corporation violating any provision of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor, and 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 such fine and imprisonment. In addition, the City shall have the right to remove the obstruction at their discretion, and the cost of so doing shall be added to the monthly utility billing sent out by the City to the appropriate property owner or account holder.
  
- 2) All ordinances or parts of ordinances in conflict herewith are hereby repealed. ([Ord. 1019 Art III, 2009](#)).

## **TITLE 13 WATER AND WASTEWATER**

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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](#), amended by [Ord. 216, 237](#), and [317](#)).

#### **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](#), amended by [Ord. 216, 237](#), and [317](#)).

#### **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](#), amended by [Ord. 216, 237](#), and [317](#)).

#### **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](#), amended by [Ord. 216, 237](#), and [317](#)).

**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](#), amended by [Ord. 216, 237](#), and [317](#)).

**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](#), amended by [Ord. 216, 237](#), and [317](#)).

**13.01.080 Water main charge**

For additional information on this section please see [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](#), amended by [Ord. 216, 237](#), and [317](#)).

**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](#), amended by [Ord. 216, 237](#), and [317](#)).

**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](#), amended by [Ord. 216, 237](#), and [317](#)).

#### **13.01.120 Public use of a fire hydrant and fees associated**

For additional information on this section please see [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](#), amended by [Ord. 216, 237](#), and [317](#)).

#### **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 §7, 1935](#); [Ord. 317 §2, 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](#), amended by [Ord. 629, 1980](#)).

#### **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. For the complete list please see [Ord. 317 §4, 1934](#), amended by [Ord. 629, 1980](#).

#### **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](#), [amended by Ord. 629, 1980](#)).

**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](#), [amended by Ord. 629, 1980](#)).

**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](#), [amended by Ord. 216, 237, and 317](#)).

**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 waterworks, 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](#), [amended by Ord. 216, 237,](#) and [317](#)).

#### **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](#), [amended by Ord. 216, 237,](#) and [317](#)).

#### **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](#), [amended by Ord. 216, 237,](#) and [317](#)).

#### **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](#), [amended by Ord. 216, 237,](#) and [317](#)).

### **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. ([Ord. 316 §4\(part\), 1934](#)).

### **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**

For additional information on this section please see [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](#)).

**13.02.100 Cross Connections and Backflow devices**

The purpose of this section is to protect the public health of water consumers of the City of Rexburg by the control of actual and/or potential cross-connections.

**DEFINITIONS:**

1. "Backflow". The flow other than the intended direction of flow, of any foreign liquids, gases, or substances into the distribution system of the City water supply.
2. "Backflow Prevention Device". A device to counteract back pressure or prevent back siphonage.
3. "City". City means the City of Rexburg and its designated representatives.
4. "Contamination". The entry into or presence in a City water supply of any substance which may be deleterious to health and/or quality of the water.
5. "Cross-Connection". Any physical arrangement whereby the City water supply is

connected, directly or indirectly, with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture, or other device which contains or may contain contaminated water, sewage or other waste or liquids of unknown or unsafe quality which may be capable of imparting contamination to the City water supply as a result of backflow.

CROSS-CONNECTIONS. For additional information please see [Ord. 1093, 2013](#).

## **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**

For additional information on this section please see [Ord. 1016 §1.1, 2009](#).

**13.03.120 Administration**

Except as otherwise provided herein, the Superintendent or his/her duly authorized representative shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the superintendent may be delegated to other City personnel. ([Ord. 1016 §1.2, 2009](#)).

### **13.03.130 Definitions**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated. For the complete list of definitions please see [Ord. 1016 §1.4, 2009](#).

### **13.03.140 Abbreviations**

For a complete list of abbreviations please see [Ord. 1016 §1.4, 2009](#).

## **ARTICLE II GENERAL REQUIREMENTS**

### **13.03.150 Prohibited discharge standards**

For additional information on this section please see [Ord. 1016 §2.1, 2009](#).

### **13.03.160 Federal categorical pretreatment standards**

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. ([Ord. 1016 §2.2, 2009](#)).

### **13.03.170 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. 1016 §2.3, 2009](#)).

### **13.03.180 Local limits**

For additional information on this section please see [Ord. 1016 §2.4, 2009](#).

### **13.03.190 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. 1016 §2.5, 2009](#)).

### **13.03.200 Special agreement**

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. 1016 §2.6, 2009](#)).

### **13.03.210 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 a user 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. 1016 §2.7, 2009](#)).

#### **13.03.220 Pretreatment facilities**

Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this ordinance 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 ordinance. ([Ord. 1016 §2.8, 2009](#)).

#### **13.03.230 Deadline for compliance with applicable pretreatment requirements**

Compliance by existing sources covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City shall establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards or for any categorical user when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards.

**New source** dischargers and **"new users"** are required to comply with applicable pretreatment standards within 3 years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. The City shall establish a final compliance deadline date for any existing user not covered by the categorical pretreatment standards or for any categorical user when the local limits for said user are more than the federal categorical pretreatment standards. New Sources and "new users" are required to comply with applicable standards within the shortest feasible time, 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 non-compliance 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. 1016 §2.9, 2009](#)).

#### **13.03.240 Additional pretreatment measures**

For additional information on this section please see [Ord. 1016 §2.10, 2009](#).

#### **13.03.250 Accidental Spill Prevention Plans**

For additional information on this section please see [Ord. 1016 §2.11, 2009](#).

#### **13.03.260 Septic Tank Waste, and Haulers**

For additional information on this section please see [Ord. 1016 §2.12, 2009](#).

## ARTICLE III WASTEWATER DISCHARGE PERMIT REQUIREMENTS

### 13.03.270 Permit requirements

- 1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from Wastewater Department; the permit must be enforceable and contain all the elements as required by [40 CFR 403.8\(f\)\(1\)\(iii\)\(B\)](#). Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set forth in this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.
- 2) The Superintendent, or Public Works Director may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this ordinance. ([Ord. 1016 §3, 2009](#)).

### 13.03.280 Wastewater Discharge Permitting: Existing SIU

Any SIU that was discharging wastewater into the POTW prior to the effective date of this ordinance and that wishes to continue such discharges in the future shall, within [60] days after notification by the wastewater Department, submit a permit application to the City of Rexburg in accordance with Section 13.03.310 of this ordinance and shall not cause or allow discharges to the POTW to continue after 180 days after the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the City of Rexburg Wastewater Department. ([Ord. 1016 §3.1, 2009](#)).

### 13.03.290 Wastewater Discharge Permitting: New source and New user

At least 90 days prior to the anticipated start-up, any new source, which is a source that becomes a user subsequent to the proposal of an applicable categorical pretreatment standard that is later promulgated, and any new user considered by the City to fit the definition of SIU shall apply for a wastewater discharge permit and will be required to submit to the City at least the information listed in paragraphs (A)-(E) of Section 13.03.310. A new source or new user cannot discharge without first receiving a wastewater discharge permit from the City. New sources and new users shall also be required to include in their application information on the method of pretreatment they intend to use to meet applicable pretreatment standards. New Sources and new users shall give estimates of the information requested in paragraphs (D) and (E) of Section 13.03.310. ([Ord. 1016 §3.2, 2009](#)).

### 13.03.300 Wastewater Discharge Permitting: Extra-jurisdictional Users

Any existing user who is located beyond the City limits and who is required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 13.03.280. New Source and new users who are located beyond [the City] limits and who are required to obtain a wastewater discharge permit shall comply with Section 13.03.290. ([Ord. 1016 §3.3, 2009](#)).

### **13.03.310 Wastewater Discharge Permit Application Contents**

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. Wastewater Department shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with [40 CFR '403.12\(b\)](#) ( pg. 38).

For additional information please see [Ord. 1016 §3.4, 2009](#).

### **13.03.320 Signatory and certification requirement**

For additional information on this section please see [Ord. 1016 §3.5, 2009](#).

### **13.03.330 Wastewater Discharge Permit decisions**

The Wastewater Department will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the Wastewater Personnel will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within [30] days of full evaluation and acceptance of the data furnished. The Wastewater Facility may deny any application for a wastewater discharge permit. ([Ord. 1016 §3.6, 2009](#)).

### **13.03.340 Wastewater Discharge Permit contents**

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Wastewater department 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. Wastewater discharge permits must contain the following conditions:

For a complete list of these conditions please see [Ord. 1016 §3.7, 2009](#).

### **13.03.350 Wastewater Discharge Permit appeals**

Any person, including the user, may petition the City to reconsider the terms of a wastewater discharge permit within one 30 days of its issuance.

For additional information please see [Ord. 1016 §3.8, 2009](#).

### **13.03.360 Wastewater Discharge Permit Duration**

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the wastewater Department. Each wastewater discharge permit will indicate a specific date upon which it will expire. ([Ord. 1016 §3.9, 2009](#)).

### **13.03.370 Wastewater Discharge Permit Modification**

The Wastewater Department may modify the wastewater discharge permit for good cause including, but not limited to, the following:

For a complete list please see [Ord. 1016 §3.10, 2009](#).

### **13.03.380 Wastewater Discharge Permit Transfer**

For additional information on this section, please see [Ord. 1016 §3.11, 2009](#).

### **13.03.390 Wastewater Discharge Permit Revocation**

Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

For a complete list of these reasons please see [Ord. 1016 §3.12, 2009](#).

### **13.03.400 Wastewater Discharge Permit Reissuance**

A user who is required to have a wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with Section 13.03.310 of this ordinance, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who has submitted its re-application in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new wastewater discharge permit. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit. ([Ord. 1016 §3.13, 2009](#)).

## **ARTICLE IV REPORTING REQUIREMENTS**

### **13.03.410 Baseline monitoring reports**

For additional information on this section please see [Ord. 1016 §4.1, 2009](#).

### **13.03.420 Final Compliance Report (Initial Compliance Report)**

For additional information on this section please see [Ord. 1016 §4.2, 2009](#).

### **13.03.430 Periodic Compliance Report**

For additional information on this section please see [Ord. 1016 §4.3, 2009](#).

### **13.03.440 Compliance Schedules for Meeting Applicable Pretreatment Standards**

For additional information on this section please see [Ord. 1016 §4.4, 2009](#).

### **13.03.450 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 (2) 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. 1016 §4.5, 2009](#)).

### **13.03.460 Hazardous Waste Notification**

For additional information on this section please see [Ord. 1016 §4.6, 2009](#).

### **13.03.470 Notice of Potential Problems, Including Accidental Spills, Slug Loadings**

Any user shall notify the Control Authority and the POTW if the POTW is not the Control Authority immediately of all discharges that could cause problems to the POTW, including

any slug loads, as defined in Section 13.03.130. 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 load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed by the City under state or federal law. ([Ord. 1016 §4.7, 2009](#)).

#### **13.03.490 Non-Compliance Reporting**

For additional information on this section please see [Ord. 1016 §4.8, 2009](#).

#### **13.03.490 Notification of Changed Discharge**

All users shall promptly notify the Control Authority and the POTW if the POTW is not the Control Authority 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. 1016 §4.9, 2009](#)).

#### **13.03.500 Reports from Un-Permitted Users**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Wastewater Foreman may require. ([Ord. 1016 §4.10, 2009](#)).

#### **13.03.510 Record Keeping**

Users subject to the reporting requirements of this ordinance shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this ordinance 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 (3) 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. 1016 §4.11, 2009](#)).

### **ARTICLE V SAMPLING AND ANALYTICAL REQUIREMENTS**

#### **13.03.520 Sampling Requirements for Users**

For additional information please see [Ord. 1016 §5.1, 2009](#).

#### **13.03.530 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. 1016 §5.2, 2009](#)).

### **13.03.540 City Monitoring of User's Wastewater**

The City will follow the same procedures as outlined in Sections 13.03.520 and 13.03.530. ([Ord. 1016 §5.3, 2009](#)).

## **ARTICLE VI COMPLIANCE MONITORING**

### **13.03.550 Inspection and Sampling**

The City shall have the right to enter the facilities of any user to ascertain whether the purpose of this ordinance 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 wastewater personnel 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.

For additional information please see [Ord. 1016 §6.1, 2009](#).

### **13.03.560 Monitoring Facilities**

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 or a wastewater treatment system.

There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, including the sampling and measuring equipment, shall be maintained at all times in a safe and proper operating condition at the expense of the user.

The Superintendent may require the user to install monitoring equipment as necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy. ([Ord. 1016 §6.2, 2009](#)).

### **13.03.570 Search Warrants**

If the wastewater personnel 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 ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this ordinance or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the wastewater personnel shall seek issuance of a search and/or seizure warrant from the *Madison County 7<sup>th</sup> judicial court* of the City of Rexburg. Such warrant shall be served at reasonable hours by the wastewater personnel in the

company of a uniformed police officer of the City of Rexburg or Madison County Sherriff. ([Ord. 1016 §6.3, 2009](#)).

### **13.03.580 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 ordinance. ([Ord. 1016 §6.4, 2009](#)).

## **ARTICLE VII CONFIDENTIAL INFORMATION**

### **13.03.590 Confidential Information**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of 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. 1016 §7, 2009](#)).

## **ARTICLE VIII PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE**

### **13.03.600 Publication of Users in Significant Non-Compliance**

For additional information on this section please see [Ord. 1016 §8, 2009](#).

## **ARTICLE IX 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 ordinance, a 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 10 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 of Rexburg to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. ([Ord. 1016 §9.1, 2009](#)).

#### **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 non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document.

Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.03.640 and 13.03.650 of this ordinance 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. 1016 §9.2, 2009](#)).

#### **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 ordinance, 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 10 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. 1016 §9.3, 2009](#)).

#### **13.03.640 Compliance Orders**

When the Superintendent finds that a user has violated or continues to violate any provision of this ordinance, a 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 non-compliance, including additional self-monitoring, and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. ([Ord. 1016 §9.4, 2009](#)).

#### **13.03.650 Cease and Desist Orders**

For additional information on this section please see [Ord. 1016 §9.5, 2009](#).

### **13.03.660 Administrative Fines**

For additional information on this section please see [Ord. 1016 §9.6, 2009](#).

### **13.03.670 Emergency Suspensions**

The City of Rexburg 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 City 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.

For additional information please see [Ord. 1016 §9.7, 2009](#).

### **13.03.680 Termination of Discharge (Non-Emergency)**

In addition to the provisions in Section 13.03.390 of this ordinance, any user that violates the following conditions is subject to discharge termination:

For a complete list of conditions please see [Ord. 1016 §9.8, 2009](#).

## **ARTICLE X JUDICIAL ENFORCEMENT REMEDIES**

### **13.03.690 Injunctive Relief**

When [the Wastewater Department finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the City may petition the *Madison County 7<sup>th</sup> Judicial Court* 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 wastewater discharge permit, order, or other requirement imposed by this ordinance 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. 1016 §10.1, 2009](#)).

### **13.03.700 Civil Penalties**

For additional information on this section please see [Ord. 1016 §10.2, 2009](#).

### **13.03.710 Criminal Prosecution**

For additional information on this section please see [Ord. 1016 §10.3, 2009](#).

### **13.03.720 Remedies Non-Exclusive**

The provisions in Sections 13.03.600 through 13.03.780 of this chapter are not exclusive remedies. The City of Rexburg reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement in response to pretreatment violations will generally be in accordance with 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 of Rexburg is empowered to take more than one

enforcement action against any non-compliant user. These actions may be taken concurrently. ([Ord. 1016 §10.4, 2009](#)).

## **ARTICLE XI SUPPLEMENTAL ENFORCEMENT ACTION**

### **13.03.730 Performance Bonds**

The Wastewater Department may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, 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 Wastewater Personnel to be necessary to achieve consistent compliance. ([Ord. 1016 §11.1, 2009](#)).

### **13.03.740 Liability Insurance**

The Wastewater Facility may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, a previous 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. 1016 §11.2, 2009](#)).

### **13.03.750 Water Supply Severance**

Whenever a user has violated or continues to violate any provision of this ordinance, a 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. 1016 §11.3, 2009](#)).

### **13.03.760 Public Nuisances**

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the City of Rexburg Wastewater Department. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance. ([Ord. 1016 §11.4, 2009](#)).

### **13.03.770 Informant Rewards**

The City of Rexburg may pay up to 500 dollars (\$500.00) for information leading to the discovery of noncompliance by a user. In the event that the information provided results in an administrative fine or civil penalty levied against the user, the City may disburse up to 3 percent (3%) of the collected fine or penalty to the informant. However, a single reward payment may not exceed 3000.00 dollars. ([Ord. 1016 §11.5, 2009](#)).

**13.03.780 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 non-compliance with pretreatment standards or requirements may be terminated at the discretion of the City. ([Ord. 1016 §11.6, 2009](#)).

**ARTICLE XII AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**13.03.790 Upset**

For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of paragraph C of this section are met. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

For a complete list please see [Ord. 1016 §12.1, 2009](#).

**13.03.800 Prohibited Discharge Standards**

A user shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 13.03.150 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's Wastewater Facility 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. 1016 §12.2, 2009](#)).

**13.03.810 Bypass**

For additional information on this section please see [Ord. 1016 §12.3, 2009](#).

**ARTICLE XIII WASTEWATER TREATMENT RATES**

City of Rexburg Local Limit BOD & TSS:

BOD	Bio-oxygen Chemical Demand	200 mg/l
TSS	Total Suspended Solids	200 mg/l

## **ARTICLE XIV MISCELLANEOUS PROVISIONS**

### **13.03.820 Pretreatment Charges and Fees**

The City of Rexburg Wastewater Department may adopt reasonable fees for reimbursement of costs of setting up and operating the Pretreatment Program which may include:

For a complete list please see [Ord. 1016 §14.1, 2009](#).

### **13.03.830 Septic Waste Haulers and Disposal Fees**

For additional information on this section please see [Ord. 1016 §14.2, 2009](#).

### **13.03.840 Excessive Strength Discharges**

*Maximum allowable BOD 200 mg/l per day*

*Maximum allowable TSS 200 mg/l per day*

For additional information please see [Ord. 1016 §14.3, 2009](#).

### **13.03.850 Severability**

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect. ([Ord. 1016 §14.4, 2009](#)).

### **13.03.860 Conflicts**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of the inconsistency or conflict. ([Ord. 1016 §14.5, 2009](#)).

## **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 dependent 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**

For additional information on this section please see [Ord. 772A §1, 1995](#); [Ord. 645 §3\(part\), 1982](#).

**13.04.040 User rates – Review and revision**

For additional information on this section please see [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 §2, 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\(1\), 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**

For additional information on this section please see [Ord. 760 §§3--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 §9, 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**

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[Ordinances 548 & 642](#) codified in [Ord. 1115, 2014](#)

#### **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**

For additional information on this section please see [Ord. 548 §3, 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 R2, R3, and Commercial Zones and Industrial Zones. ([Ord. 642 §1, 1981](#)). Note: The aforementioned zoning titles have been updated. For current zoning titles see [Ord. 1026](#).

##### **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\(part\), 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\(part\), 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 State ordinances and statues regulating buildings, electrical installations and plumbing and sanitation systems.

For the service building requirements please see [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:

For the requirements please see [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:

For a list of permitted uses of mobile homes please see [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 "structure 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.

For additional information please see [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 31<sup>st</sup>. ([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 §4, 1960](#)).

#### **14.03.150 Service building requirements**

For additional information on this section please see [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\(part\), 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:

For a complete list of this information please see [Ord. 548 §5\(A\), 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:

For additional information about the specific widths please see [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. 1026](#).

### **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:  
For specific measures please see [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**

For additional information on this section please see [Ord. 422 §7, 1960](#).

## **TITLE 15 BUILDINGS REGULATIONS**

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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, 2009* edition, the *International Residential Code 2009* edition, the *International Mechanical Code 2009* edition, the *International Fuel Gas Code 2009* edition and the *International Energy Conservation Code 2009* edition, all published by the International Code Council, the *NFPA 70 National Electrical Code as currently required by the State of Idaho* and the *Uniform Plumbing Code as currently required by the State of Idaho* and 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: providing 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 15.01.020 of this ordinance. ([Ord. 1059 § 1, 2010](#)).

#### **15.01.20 endments**

For additional information regarding the following sections that are hereby revised please see [Ord. 1059 §2, 2010](#).

#### **15.01.030 Fees**

That building permit fees and other inspection fees not identified in Section 15.01.020 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. 1059 §3, 2010](#))

#### **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. 1059 §5, 2010](#))

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 15.01.020 of this ordinance: nor shall any just or legal right or remedy of any character lost, impaired or affected by this ordinance. ([Ord. 1059 §6, 2010](#))

#### **15.01.050 Violation – Penalty**

Any person, firm, or corporation violating any provision of the Building Code as described in Section 15.01.010 of this document, shall upon conviction thereof, be guilty of a general misdemeanor, which shall 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 15.01.010 of this document. Each day of violation shall constitute a separate offense. ([Ord.1059 § 8, 2010](#))

### **CHAPTER 15.02 LIFE SAFETY\***

\*Note to Chapter 15.02: For statutory provisions concerning life safety issues, administration and appeal, and violation –penalty, see Rexburg [Ordinance 851](#).

### **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\(H\), 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, 2008 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, 2008 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 Fire Protections Association Code No. 54 of 1969, regulating the construction, installation and maintenance of gas piping and gas appliances in buildings, and said National Fire Protection Association Code No. 54 under date of 1969, being of 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. 524 §1, 1972](#); [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. ([Ord. 455 §3\(d\), 1965](#)).

**15.05.090 Inspection – Requirements generally – Piping and pressure tests**

For additional information on this section please see [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**

For a complete list of these qualifications please see [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. ([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: [here](#).

#### **15.06.010 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. 1115 Chapter 10 §3\(a\), 2014](#)).

#### **15.06.020 The Maximum Height**

Unless further restricted in this Sign Code, 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. 1115 Chapter 10 §3\(b\)\(part\), 2014](#); [Ord. 1027 §2, 2010](#)).

#### **15.06.030 Definitions**

Various types of signs and definitions relating to signs, **Schedule “A”** hereto and incorporated as a part of this Ordinance. This Schedule is not intended to be all-inclusive, but is to be for definition purposes in assisting in the understanding and compliance with the intent of this Ordinance. ([Ord. 1115 Chapter 10 §3\(c\), 2014](#); [Ord. 1027 §3, 2010](#)).

#### **15.06.040 Use and Placement**

**Schedule “B” including (3 spread sheets showing the separate Zones)** attached hereto, and by reference made a part hereof, is intended to set forth various types of signs, and the respective zones in which such signs shall be allowed. ([Ord. 1115 Chapter 10 §3\(d\), 2014](#); [Ord. 1027 §4, 2010](#)).

#### **15.06.050 Permits and Fees**

For additional information on this section please see [Ord. 1115 §3\(e\), 2014](#); [Ord. 1027 §5, 2010](#).

#### **15.06.060 Copies on File**

There shall hereafter be kept on file, in the offices of the City Clerk and the Building Department, three (3) copies of this sign code, duly certified by the Clerk, for use and examination by the public. ([Ord. 1115 §4, 2014](#); [Ord. 1027 §6, 2010](#)).

#### **15.06.070 Violation - Penalty**

Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor, and be subject to the following civil penalties or remedies:

For a complete list of the penalties or remedies please see [Ord. 1115 §5, 2014](#); [Ord. 1027 §7, 2010](#).

#### **15.06.080 Severability**

The sections of this chapter 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 chapter in the event any portion hereof is deemed to be invalid. ([Ord. 1115 §6, 2014](#); [Ord. 1027 §8, 2010](#)).

### **CHAPTER 15.07 INTERNATIONAL FIRE CODE\***

\*Note to Chapter 15.07: Prior ordinance history: [Ords. 654, 672, 689, 784, 828, 873, 918, 933, 997, 1042, 1063, and 1096](#).

Ord. [1063](#) & [1096](#) are repealed by [Ord. 1109](#)

#### **15.07.010 International Fire Code 2012 adopted by reference [Ord 1109 §2, 2014](#).**

**15.07.104.6 Official records.** The fire code official shall keep official records as required by Sections 104.6.1 through 104.6.4. Investigations shall show the cause, the findings and deposition of each. Such official records shall be retained as indicated in the City of Rexburg Records Management Manual, Appendix D, September 2006. ([Ord. 1109 §3\(B\), 2014](#)).

**15.07.105.1.1 Permits required.** Permits required by this code shall be obtained from the Rexburg City Clerk. Permit fees are located [here](#) and 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. ([Ord. 1109 §3\(C\), 2014](#)).

**15.07.105.7.1 Automatic fire-extinguishing systems.** A construction permit and 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 ([Ord. 1109 §3\(D\), 2014](#)).

**15.07.105.7.5 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 ([Ord. 1109 §3\(E\), 2014](#)).

**15.07.105.7.6 Fire pumps and related equipment.** A construction permit and safety system certification permit are 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 ([Ord. 1109 §3\(F\), 2014](#)).

**15.07.106.5 Re-inspection fees.** A re-inspection fee may be assessed for each re-inspection when such portion of work for which inspection is called for is not completed or when corrections called for are not made within the allotted time ([Ord. 1109 §3\(G\), 2014](#)).

**15.07.109.3 Violation penalties.** Persons who shall violate a provision of this code or shall fail to comply with any of the requirements therein or who shall erect, install, alter, repair, or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$500.00 dollars, or by imprisonment not exceeding 180 days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offence ([Ord. 1109 §3\(H\), 2014](#)).

**15.07.113.2 Schedule of permit fees.** A fee for each permit and repeated false alarms shall be paid as required, in accordance with the Rexburg Municipal Code; They can be found [here](#) ([Ord. 1109 §3\(K\), 2014](#)).

**15.07.113.3 Work commencing before permit issuance.** Any person who commences any work, activity or operation regulated by this code, before obtaining the necessary permits shall be subject to an additional fee established by the applicable governing authority which shall be in addition to the required permit fees. An exception shall be granted for 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 ([Ord. 1109 §3\(L\), 2014](#)).

**15.07.113.6 Reimbursement of operational costs.** Madison Fire Department is authorized to seek reimbursement of response, suppression and ambulance costs from or related to incidents. The costs shall be based upon the current edition of the Idaho Fire Service Organization Rate Book ([Ord. 1109 §3\(M\), 2014](#))

**15.07.114 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. Fire Alarm Contractors shall provide proof of Liability Insurance and proof of having a minimum of a NICET Level II certification for fire alarm systems design and NICET Level I for testing. Fire Sprinkler Contractors shall provide proof of Liability Insurance and proof of having a minimum of a NICET Level II certification for sprinkler system design, NICET Level I for testing, and any additional certifications as required. Certifications shall be equal to/or the equivalent as specified in NFPA 72 ([Ord. 1109 §3\(N\), 2014](#))

**15.07.114.1 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 ([Ord. 1109 §3\(O\), 2014](#))

**15.07.401.3.4 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 Madison Fire Department ([Ord. 1109 §3\(P\), 2014](#))

**15.07.401.5 Making false report.** A person shall not give, signal, or transmit a false report. The Fire Chief shall be authorized to seek restitution from the perpetrator and/or any and all accomplices for making false reports. Restitution for making false reports shall be the actual cost recovery of personnel, engines, and supplies according to the current edition of the Idaho Fire Service Organization Rate Book ([Ord. 1109 §3\(Q\), 2014](#)).

**15.07.501.4 Timing of installation.** When fire apparatus access roads, driveways, or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to/and during the time of construction except when approved alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2 ([Ord. 1109 §3\(S\), 2014](#)).

**15.07.502 .1 Driveway.** A driveway is a vehicular ingress and egress route that serves no more than five (5) single family dwellings, not including accessory structures ([Ord. 1109 §3\(T\), 2014](#)).

#### **15.07.503 FIRE APPARATUS ACCESS ROADS AND DRIVEWAYS**

For additional information on this section please see [Ord. 1109 §3\(U\), 2014](#)

**15.07.503.2.4 Turning radius.** The minimum turning radius shall be not less than 30 feet and an outside turning radius of not less than 45 feet ([Ord. 1109 §3\(W\), 2014](#)).

**15.07.503.4 Obstruction of fire apparatus access roads.** Fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles, the accumulation of snow, or the growing of vegetation. The minimum widths and clearances established in Section 503.2.1 shall be maintained at all times ([Ord. 1109 §3\(X\), 2014](#)).

**15.07.503.6 Security gates.** Where security gates are installed, they shall have an approved means of emergency operation and be equipped with a Knox Box®. The Knox Box® shall contain the appropriate key, card, or code to operate the security gate. The security gate and the emergency operation shall be maintained operational at all times. Electric gate openers, where provided, shall be listed in accordance with UL 325. Gates intended for automatic operation shall be designed, constructed, and installed to comply with the requirements of ASTM F 2200. Security gates shall be approved by the fire code official.

**15.07.503.7 Driveways.** Driveways shall be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road. Driveways shall provide a minimum unobstructed width of 12 feet and minimum unobstructed height of 13 feet 6 inches. Driveways in excess of 150 feet in length shall be provided with turnarounds. Driveways in excess of 200 feet in length and 20 feet in width may require turnouts in addition to a turnaround ([Ord. 1109 §3\(Y\), 2014](#)).

**15.07.503.7.2 Turnarounds.** Driveway turnarounds shall have an inside turning radius of not less than 30 feet and outside turning radius of not less than 45 feet. Driveways that connect with an access road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radius requirements for driveway turnarounds.

**15.07.503.7.3 Turnouts.** Where line of sight along a driveway is obstructed by a man-made or natural feature, turnouts shall be located as may be required by the fire code official to provide for safe passage of vehicles. Driveway turnouts shall be of an all-weather road surface at least 10 feet wide and 30 feet long ([Ord. 1109 §3\(AA\), 2014](#)).

**15.07.503.7.4 Bridge load limits.** Vehicle load limits shall be posted at both entrances to bridges on driveways and private roads. Design loads for bridges shall be established by the fire code official and the city engineer ([Ord. 1109 §3\(BB\), 2014](#)).

**15.07.503.7.5 Address markers.** All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases the address shall be posted at the beginning of construction and maintained thereafter. The address shall be visible and legible from the road on which the address is located. Address signs along one-way roads shall be visible from both the intended direction of travel and the opposite direction. Where multiple addresses are required at a single driveway, they shall be mounted on a single post and additional signs shall be posted at locations where driveways divide ([Ord. 1109 §3\(CC\), 2014](#)).

**15.07.503.7.6 Grade.** The gradient for driveways shall not exceed 10 percent unless approved by the fire code official ([Ord. 1109 §3\(DD\), 2014](#)).

**15.07.503.7.8 Surface.** Driveways shall be designed and maintained to support the imposed loads of local responding fire apparatus and shall be surfaced as to provide all weather driving capabilities. Driveways shall be constructed according to the latest version of Idaho Standards for Public Works Construction ([Ord. 1109 §3\(EE\), 2014](#)).

**15.07.503.8 Barricade specifications.** If emergency vehicle access roadways are secured with a barricade, chain, gate, or bollard, such barricade shall meet the following criteria. Removal or opening of said barricade must result in a clear unobstructed road width of at least twenty (20) feet. Chains and locks shall 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 fire code official. Access roadways shall be maintained year-round, including snow removal ([Ord. 1109 §3\(FF\), 2014](#)).

**15.07.505.3 Multi-family dwelling address.**

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.

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 ([Ord. 1109 §3\(Q\), 2014](#)).

**15.07.506.1 Knox Box® location.** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for life-saving or fire-fighting purposes, the fire code official is authorized to require a Knox Box® (s) to be installed in approved locations. The Knox Box®(s) shall contain keys, cards, or codes to gain necessary access and operate life safety equipment as required by the fire code official. All newly constructed structures subject to this section shall have the Knox Box®(s) installed and containing the required keys prior to the issuance of an occupancy permit. Locations shall include:

For a complete list of what these locations include please see [Ord. 1109 §3\(KK\), 2014](#).

**15.07. 507.2 Type of water supply.** A water supply shall consist of water delivered by fire apparatus, reservoirs, pressure tanks, elevated tanks, water mains, or other sources capable of providing the required fire flow as approved by the fire code official. No exceptions allowed ([Ord. 1109 §3\(LL\), 2014](#)).

**15.07.507.5.7 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 (40) feet is an impractical distance, the code official may allow a lesser distance. Access to hydrants adjacent to properties must be approved by the fire code official ([Ord. 1109 §3\(PP\), 2014](#)).

**15.07.507.5 Fire hydrant systems.** Fire hydrant systems shall comply with sections 507.5.1 through 507.5.7 ([Ord. 1109 §3\(NN\), 2014](#)).

**15.07.507.5.5 Clear space around hydrants.** A 3-foot clear space shall be maintained around the circumference of fire hydrants, including snow, except as otherwise required or approved ([Ord. 1109 §3\(OO\), 2014](#)).

**15.07.507.5.7 Fire hydrant models.** New fire hydrants shall be the Waterous® WB67-250, Mueller® A-423, or Clow® F-2545. New hydrants shall be painted red and installed with a 5 inch Storz fitting and cap ([Ord. 1109 §3\(QQ\), 2014](#)).

**15.07.509.2 Equipment access.** Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Storage, trash and other materials, or objects shall not be placed or kept in such a manner that would prevent such equipment from being readily accessible. A working space shall be clearly marked and identified 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.

**15.07.901.6.2 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 years. An additional copy of all inspection and test reports shall be sent to Madison Fire Department by the contractor (person) doing the maintenance or inspection ([Ord. 1109 §3\(RR\), 2014](#)).

**15.07.903.1.2 Warehouse sprinkler systems.** An automatic sprinkler system shall be installed in warehouse type buildings where any portion of the building has an open ceiling height over twelve (12) feet.

**15.07.903.1.3 Freeze protection.** Approved automatic sprinkler systems in new buildings and structures shall be protected from freezing to a temperature of -40<sup>0</sup> Fahrenheit. ([Ord. 1096 §3\(MM\), 2012](#))

**15.07.903.2 Where required.** Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.12.

**15.07.903.3.1.2 NFPA 13R sprinkler systems.** Where allowed in buildings of Group R, with three (3) to twelve (12) dwelling units, automatic sprinkler systems shall be installed throughout in accordance with NFPA 13R or NFPA 13 ([Ord. 1109 §3\(SS\), 2014](#)).

**15.07. 903.3.7 Fire department connections.** The location of fire department connections (FDC) shall be within 150 feet of a hydrant and adjacent to the fire apparatus access road. The FDC shall include clappers. ([Ord. 1096 §3\(OO\), 2012](#))

**15.07. 903.3.8 Approved piping.** All piping and fittings four inches or greater shall be ductile iron beginning at a minimum of three feet from the exterior of the building or structure and continuing through to the appurtenances associated with the fire suppression system. Private fire service mains and their appurtenances shall be tested in accordance to NFPA 24. ([Ord. 1096 §3\(PP\), 2012](#))

**15.07.905.1 General.** Standpipe systems shall be provided in new buildings and structures in accordance with this section. The hose threads used in connection with standpipe systems shall be approved and shall be compatible with fire department hose threads. The location of fire department hose connections shall be approved. All Standpipe systems shall be automatic standpipe systems as defined by NFPA 14 unless approved by the Fire Chief or his designee. In buildings used for high-piled combustible storage, fire protection shall be in accordance with Chapter 23 ([Ord. 1109 §3\(WW\), 2014](#)).

**15.07.906.5 Conspicuous location.** Portable fire extinguishers shall be located in conspicuous locations where they will be readily accessible and immediately available for use. R-2 occupancies shall have at a minimum one portable fire extinguisher within the dwelling unit located near the cooking area. These locations shall be along normal paths of travel, unless the fire code official determines that the hazard posed indicates the need for placement away from normal paths of travel. ([Ord. 1109 §3\(YY\), 2014](#); [Ord. 1096 §2\(RR\), 2012](#))

**15.07. 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 buildings and structures. The requirements of Section 907.3 are applicable to existing buildings and structures. No partial fire alarm and detection systems shall be allowed ([Ord. 1109 §3\(ZZ\)\(part\), 2014](#)).

**15.07.907.7.1. Wiring.** Wiring shall comply with the requirements of NFPA 70 and NFPA 72. Wireless protection systems utilizing radio-frequency transmitting devices shall comply with the special requirements of supervision of low-power wireless systems in NFPA 72. All wiring not installed in conduit shall be installed with approved hangers or protective devices. All hangers or protective devices must meet the approval of the fire code official ([Ord. 1109 §3\(AAA\), 2014](#)).

**15.07. 907.7.3.2.3 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. The annual inspection shall include inspections items identified in NFPA 72 and include a random inspection of 10% of the initiating devices to ensure proper labeling of the address on the device and address verification at the FACP. The access doors leading to the FACP shall be posted with “FACP” in four inch tall letters with ½” stroke

width. Remote annunciators shall be installed in approved locations. ([Ord. 1109 §3\(BBB\), 2014](#); [Ord. 1096 §2\(UU\), 2012](#))

**15.07.4601.1 Scope.** The provisions of this chapter shall apply to existing buildings constructed prior to the adoption of this code and only if in the opinion of the fire code official, they constitute a distinct hazard to life or property ([Ord. 1109 §3\(DDD\), 2014](#)).

**15.07.B105.3 Hydrant testing.** Fire flow testing of hydrants shall be supervised by the fire code official. Documentation of the hydrant testing shall be made available to the fire code official within 10 working days. ([Ord. 1096 §2\(WW\), 2012](#))

**15.07.D103.3 Turning radius.** The minimum turning radius shall not be less than 30 feet and an outside turning radius of not less than 45 feet ([Ord. 1109 §3\(KKK\), 2014](#)).

**15.07.D103.6.2.3 Fire access signage.** All occupancies classified as commercial shall have fire access roadways posted with the proper signs as in Section D103.6 at seventy-five (75) foot intervals from the center of the fire access road. Additionally, curbs shall be painted red and maintained as required by the fire code official. ([Ord. 1109 §3\(LLL\), 2014](#))

**15.07.D105.3 Proximity to building.** Buildings or structures of four stories or less shall have at least one of the required access routes located within a minimum of 15 feet and maximum of 45 feet from the building, and shall be positioned parallel to one entire side of the building. Buildings or structures greater than four stories shall have at least one of the required access routes located within a minimum of 15 feet and maximum of 30 feet from the building, and shall be positioned parallel to one entire side of the building. ([Ord. 1109 §3\(MMM\), 2014](#))

## **CHAPTER 15.08 FIRE DEPARTMENT LOCK BOX**

**15.08.010 Repealed by [Ordinance 1063](#)**

## **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**

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.

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:

For the specific points of the purpose please see [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:

For additional information please see [Ord. 717 §1.4, 1991](#).

#### **15.09.050 Definitions**

For additional information on this section please see [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, 35 North 1st East, 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:

For details of the required information please see [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**

For additional information on this section please see [Ord. 717 §4.3, 1991](#).

**15.09.160 Variance procedures – Appeals board**

For additional information on this section please see [Ord. 717 §4.4-1, 1991](#).

**15.09.170 Conditions for variances**

For additional information on this section please see [Ord. 717 §4.4-2, 1991](#).

**15.09.180 Provisions for flood hazard reduction – General standards**

For additional information on this section please see [Ord. 717 §5.1, 1991](#).

**15.09.190 Specific standards**

For additional information on this section please see [Ord. 717 §5.2, 1991](#).

**15.09.200 Floodways**

For additional information on this section please see [Ord. 717 §5.3, 1991](#).

**CHAPTER 15.10 COMMERCIAL BUILDING DESIGN STANDARDS**

All commercial establishments are to follow the Commercial Design Standards. ([Ord. 1026, 2009](#))

## **TITLE 16 ZONING**

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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. 1026, 2009](#)). Amending [Ordinances 1045, 1055, 1073, 1075, 1084, and 1095](#).

For the [City of Rexburg Development Code Ord. No. 1026](#) go to [www.rexburg.org](http://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**

For additional information on this section please see [Ord. 896 §1\(part\), 2003](#).

#### **16.02.023 “Developer Parking Option” for apartment complexes:**

Development Code; Chapter 5, Section 5.5 Sub-Section 1.2 “[Developer Option](#)” Parking ratio's for apartment complexes may be 80% at 9' x 16' spaces and 20% may be 9' x 20' spaces. (See Pedestrian Emphasis Zone (PEZ) for additional 9' x 20' visitor parking requirements.) ([Ord. 1064 §1, 2011](#))

**16.02.030 Exemptions**

For additional information on this section please see [Ord. 896 §2, 2003](#).

**16.02.040 Collection of impact fees**

For additional information please see [Ord. 896 §4, 2003](#).

**16.20.050 Calculation of impact fees**

For additional information on this section please see [Ord. 896 §5, 2003](#).

**16.02.060 General methodology for calculation**

For additional information on this section please see [Ord. 896 §6, 2003](#).

**16.02.070 Credits and reimbursements**

For additional information on this section please see [Ord. 896 §8, 2003](#).

**16.02.080 Administration of impact fees**

For additional information on this section please see [Ord. 896 §7, 2003](#).

**16.02.090 Refunds**

For additional information on this section please see [Ord. 896 §9, 2003](#).

**16.02.100 Appeals**

For additional information on this section please see [Ord. 896 §10, 2003](#).

**16.02.110 Extraordinary impacts**

For additional information on this section please see [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**

For more additional information please see [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 2020 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. (Adopted by resolution).

### **CHAPTER 16.07 IMPACT AREA JOINT COMMISSION**

#### **16.07.010 Purpose**

Pursuant to [Idaho Code §67-6526](#), all cities and towns in Idaho must identify an Area of City Impact within the unincorporated area of the county in which they reside. The local governments having Areas of City Impact falling entirely, or in part, within Madison County for purposes of this ordinance referred to as, “Local Governments” have prepared and adopted this ordinance to:

- 1) Define the purpose and intent of Areas of City Impact within the County;
- 2) Define the procedures for expansion or realignment of Areas of City Impact within the County; and
- 3) Establish an Area of City Impact Joint Commission to evaluate proposed Areas of City Impact renegotiations. ([Ord. 1012, §1, 2008](#)).

#### **16.07.020 Definitions**

For additional information on this section please see [Ord. 1012, §2, 2008](#).

#### **16.07.030 Area of City Impact Delineation**

For additional information on this section please see [Ord. 1012, §3, 2008](#).

#### **16.07.040 Establishment of an Area of City Impact Joint Commission**

For additional information on this section please see [Ord. 1012, §4, 2008](#).

#### **16.07.050 Area of City Impact Renegotiation**

For additional information on this section please see [Ord. 1012, §5, 2008](#).

#### **16.07.060 Annexation**

For additional information on this section please see [Ord. 1012, §6, 2008](#).

#### **16.07.070 Dispute Resolution Process**

In the event that the Joint Commission cannot agree on realignment of an Area of City Impact boundary, disputes shall be resolved according to the dispute resolution process outlined in [Idaho Code §67-6526](#). ([Ord. 1012, §7, 2008](#)).

### **CHAPTER 16.09 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](#).

#### **16.09.010 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](#)).

#### **16.09.020 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 16.10 URBAN RENEWAL**

#### **16.10.010 Urban renewal agency**

On or about the 6<sup>th</sup> 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 ([Ord. 910\(part\), 2003](#)).

#### **16.10.020 North Highway**

For the City of Rexburg North Highway Urban Renewal Plan [Ord. No. 728](#) and [815](#) go to [www.rexburg.org](http://www.rexburg.org) or contact City Hall.

For the City of Rexburg North Highway Urban Renewal Plan, 2<sup>nd</sup> East expansion Ord. No. 950 go to [www.rexburg.org](http://www.rexburg.org) or contact City Hall.

#### **16.10.030 Washington School**

For the City of Rexburg Washington School Urban Renewal Plan [Ord. No. 794](#) go to [www.rexburg.org](http://www.rexburg.org) or contact City Hall.

#### **16.10.040 Downtown district redevelopment plan**

For the City of Rexburg Downtown District Redevelopment Plan [Ord. No. 910](#) go to [www.rexburg.org](http://www.rexburg.org) or contact City Hall.

#### **16.10.050 South Arterial Urban Renewal Plan**

For the City of Rexburg Downtown District Redevelopment Plan Ord. No. 996 go to [www.rexburg.org](http://www.rexburg.org) or contact City Hall.

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