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Chapter 5.02LICENSES GENERALLYSections:

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5.02.010 Definitions. In construing the provisions of this chapter, the following definitions shall apply:

“Business” or “occupation” means all activities, trades, and pursuits conducted or engaged in for profit, including without limitation, wholesale businesses, retail businesses, and personal service businesses and professions, in any and all situations where suppliers, vendors, customers, clients, and/or members of the general public visit or frequent the premises where the business or occupation is conducted, but shall not mean home occupations as defined by the Hailey Zoning Ordinance, Hailey Ordinance No. 532, as amended.

“City” means the city of Hailey, Idaho.

“City clerk” means the city clerk of the city of Hailey, Idaho, or his/her designee acting as the licensing officer.

“Not-for-profit business” means any organization exempt from taxation as provided by 26 USC 501 and meeting all the requirements for the exemption provided by USC 26 USC 503.

“Person” means any individual, firm, partnership, company, corporation, joint venture, association, or other business entity.

“Premises” means all real property and structures where any business or occupation is conducted.

“Public street or place” as used in this chapter means sidewalk, street, alley, highway, public right-of-way, park, parking lot, or other place owned in fee by the city or in, on or over which an easement exists in the name of or held by the city, or which exists for the benefit and use of the public. (Ord. 1051 §1, 2010; Ord. 872 §1, 2004; Ord. 593 §1, 1992)

5.02.020 Required–Application. A business license shall be required for each premises located within the city in which any person is engaged in any business or occupation. Any person conducting such a business or engaged in such an occupation shall apply for the required business license by filling out an application provided by the city clerk. A license shall be required for each branch establishment and/or separate location of a business. (Ord. 593 §3, 1992)

5.02.030 Exceptions. The following activities are exempted from the provisions of this chapter:

- A. Any sales under court order;
- B. A bona fide auction sale;
- C. Garage, yard, or similar sales by individual at their residence or place of business not exceeding twice in one calendar year; which sales shall not include business inventory; and
- D. Any business activity or event approved under Chapter 5.24 (Fireworks) or Chapter 12.14 (Special Events) of the Hailey Municipal Code. (Ord. 903 § 2, 2005; Ord. 872 §2, 2004; Ord. 593 §2, 1992)

5.02.040 Standards for issuance of license. A license shall be issued by the city clerk only to applicants who meet the following requirements:

- A. Compliance with Building and Fire Regulations. The business and premises for which the license application is made has not been cited by the building or fire departments for a violation of the adopted International Building or Fire Code, or, having been cited for such a violation, is in the process of correcting the violation to the satisfaction of the building official or fire chief. The applicant shall specify what steps are being taken to correct the violation. Businesses relocating in new structures or remodeled structures and all new businesses opening for the first time shall have obtained a certificate of occupancy furnished by the city building inspector establishing that the premises are not in violation of the applicable International Building Code and applicable

International Fire Code.

B. Compliance with Zoning Requirements. The business and premises for which the application is made are not in violation of any zoning regulations.

C. Water & Sewer Connection Required. The business and premises for which the application is made shall be connected to city water and sewer systems, and shall not be in violation of any section of Chapter 13 of the Hailey Municipal Code.

D. The business and premise for which the application is made shall not be placed upon or encroach upon any public street or place, with the exceptions of sidewalks. Encroachments upon private parking or yard areas, public sidewalks or other areas outside of a business structure connected to city water and sewer systems shall be shown clearly upon the business license application and shall not restrict a clear six-foot lane for pedestrian traffic. The encroachment must meet all other applicable rules, regulations, and ordinances of the city of Hailey.

E. The intended use of any business areas outside of a business structure connected to city water and sewer systems, whether upon public sidewalks or private parking and yard areas shall be shown upon the application, and shall be restricted to the same use and business activity as is conducted within the business structure connected to city water and sewer systems. (Ord. 1004 §1, 2008; Ord. 903 §1, 2005; Ord. 872 §3, 2004; Ord. 593 §6, 1992)

5.02.050 License fee–Renewal. A non-refundable business license fee for the administrative costs of processing applications shall be paid by each applicant at the time of making application for any business license. The license shall be issued for one year from the date of application approval. All business licenses required hereunder shall be renewed annually for each year or portion of the year in which the business or occupation subject to this chapter remains in operation. There shall be a pro-ration of fees for licenses renewed for a portion of the year, proportional to the amount of months the business plans to remain in operation. In no case will refunds of renewal fees be given. The amount of the fees provided for herein shall be set by resolution of the city council. Any agency of the United States government and political subdivisions of the state of Idaho, including counties, school districts, sewer districts, fire districts, and other special districts, and not-for-profit businesses shall be exempt from payment of the license fee required by Section 5.02.050, but shall be required to obtain a license and annual renewals of said license, and shall be subject to all other provisions of this chapter. (Ord. 1004 §2, 2008; Ord. 872 §4, 2004; Ord. 689 §1, 1996)

5.02.060 Change of location. No licensee shall change the location of a licensed business without having applied for and received a new business license pursuant to the terms of this chapter. (Ord. 593 §7, 1992)

5.02.070 Prohibition against doing business without a license. No person shall engage in any business or occupation within the boundaries of the city without first having obtained a business license as required by this chapter. All business licenses required under this chapter shall be displayed on the business premises in a location clearly visible to the general public. (Ord. 872 §5, 2004; Ord. 689 §2, 1996; Ord. 593 §5, 1992)

5.02.080 Right of appeal. An appeal from any decision of the city clerk made in the administration or enforcement of this chapter may be made to the city council by filing a written appeal and fee with the city clerk within fifteen days following the date of the action or decision giving rise to the appeal. Upon hearing the appeal, the city council shall consider the record, the decision of the city officer, and the written appeal, together with oral presentation by the appellant, the city officer or administrator and the applicant. The city council may affirm, reverse, or modify the decision of the city clerk. The city council shall not substitute its judgment for that of the city clerk as to the weight of the evidence on questions of fact. The city council shall affirm the city clerk’s decision unless the city council finds the decision is a) clearly erroneous, b) arbitrary, capricious or an abuse of discretion, or c) not supported by substantial evidence in the record as a whole. The city clerk shall transmit a copy of the city council’s decision and findings to the appellant, the applicant and any other person or entity who has requested a copy in writing. The fee for processing the appeal shall be set by resolution of the city council. (Ord. 872 §6, 2004; Ord. 593 §8, 1992)

5.02.090 Enforcement. A. Civil Liability. The city attorney shall, at the direction of the city council, institute civil suit in the name of the city to enforce compliance with the provisions of this chapter by injunctive relief, declaratory relief or other civil remedy. The city shall be entitled to recover its costs and attorneys’ fees from the other party upon prevailing in any such civil action. No civil judgment, or any act by the city or the violator shall bar or prevent a criminal prosecution for each and every violation of this chapter.

B. Criminal Liability. A person who violates any provision of this chapter or operates any business or occupation for which a license is required by this chapter without having first obtained a license, as herein provided, shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars, or imprisonment for not more than thirty days, or both such fine and imprisonment, which penalty shall be in addition to any other penalties provided in this chapter. Each day that a violation of this chapter occurs shall be deemed a separate offense. (Ord. 593 §9, 1992)

Chapter 5.03

CHILD CARE FACILITY LICENSING

Sections:

- 5.03.010 Purpose.
- 5.03.020 Definitions.
- 5.03.030 License required.
- 5.03.040 Application required.
- 5.03.050 Certification.
- 5.03.060 Issuance of license.
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5.03.080	Renewal of license.
5.03.090	Immunization.
5.03.100	Compliance with applicable fire and safety standards.
5.03.110	Denial, suspension or revocation of license.
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5.03.010 Purpose. It is declared to be the purpose of this chapter to establish a city-wide system for the protection of children in child care facilities in cooperation with existing state of Idaho regulations and enforcement agencies. This system is intended to establish a city licensing procedure for all child care providers as defined in this chapter. This chapter is intended to establish standards for child care services, while at the same time, leaving primary responsibility for evaluation and selection of child care with parents. (Ord. 740 §1 (part), 1999)

5.03.020 Definitions. In construing the provisions of this chapter, the following definitions, terms, phrases, words and derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word “shall” is always mandatory and not merely directory.

“Applicant” means a person who submits to the city an application for a license or the renewal of a license individually or on behalf of a corporation, partnership or association to conduct, operate or maintain a child care facility under this chapter.

“Child” means an individual who is under the age of eighteen years, including an individual who is related by blood, adoption or who is otherwise the charge of any individual providing child care. The age of a child shall be determined by his or her date of birth.

“Child care” means care and supervision of children provided in exchange for compensation during part of a twenty-four-hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child’s or children’s own homes.

“Child care facility” means any business, place of business, home or establishment which provides child care. There shall be three classifications of child care facility:

1. Family child care home: a child care facility providing child care for six or fewer children;
2. Group child care home: a child care facility providing child care for seven to twelve children;
3. Child care center: a child care facility providing child care for thirteen or more children.

A child care facility shall not include the following:

1. Any institution, school or facility operated by or under the direction of the state of Idaho by any agency or political subdivision of the state of Idaho or by any other public body or public entity;
2. Any elementary, junior high, or high school licensed and designated as such by the state of Idaho;

3. Any medical or hospital facility operated pursuant to license issued by the state of Idaho;

4. The operation of day camps, programs and religious schools for less than twelve weeks during a calendar year or not more often than once a week;

5. The operation of a private school or religious school for educational purposes for children over four years of age or a religious kindergarten.

“City” means the employee, employees, agents or representatives of the city of Hailey designated by the mayor and/or city council to carry out specific functions on behalf of the city.

“Director” means an adult who has primary responsibility for the day-to-day operations and/or management of a child care facility.

“Licensee” means a person who holds a current and valid license issued by the city for operation of a child care facility.

“Owner” means any person with a financial or proprietary interest of any kind in a child care facility.

“Person” means any individual, group of individuals, association, firm, partnership or corporation.

“Premises” means a structure, facility, yard, play area, or any part of a structure, facility, yard, or play area where any child care is provided.

“Staff” means every individual who provides child care at a child care facility, including every volunteer and employee who has supervised or unsupervised direct contact with children who attend a child care facility.

“Volunteer” means every individual who provides service in a child care facility, without any express or implied promise of remuneration. (Ord. 740 §1 (part), 1999)

5.03.030 License required. A. No person shall maintain, operate, or permit to be operated within the city any child care facility, as defined in this chapter, unless a current and valid Hailey child care license has been issued by the city as provided herein.

B. The licensing requirements set forth in this chapter shall not apply to the following:

1. The occasional care of a neighbor’s relatives or friend’s child or children by a person not ordinarily in the business of child care; and

2. The care for children of only one immediate family in addition to the person’s own children.

C. Proposed child care facilities must comply with the provisions of the ordinance codified in this chapter upon its publication according to law.

D. Previously existing child care facilities must comply with the ordinance codified in this chapter within ninety days of its publication according to law. (Ord. 740 §1 (part), 1999)

5.03.040 Application required. A. An applicant for a Hailey child care license shall complete an application form provided by the city which shall include, but may not be limited to, a current list of all owners, directors, staff, and all individuals twelve years of age or older residing at the premises, and any necessary authorizations or releases. The applicant must designate one person as director. Failure to provide the

necessary information, releases or authorizations shall be grounds to deny a license or application. When the applicant for such a license is a corporation, such corporation must demonstrate authorization to do business in the state of Idaho.

B. The applicant will not be required to hold a separate Hailey business license, but will be subject to the provisions of Hailey Municipal Code Chapter 5.02, including compliance with applicable Hailey building and fire codes. (Ord. 1004 §3, 2008; Ord. 740 §1 (part), 1999)

5.03.050 Certification. A. Whether the applicant for a Hailey child care license is a group child care home, child care center, or family child day care home, the applicant must submit the following certification at the time of application:

1. A “basic day care license” issued by the Idaho Department of Health and Welfare as provided in Idaho Code Section 39-1101, et seq., which shall include, but which may not be limited to, the following:

a. Documentation of fire inspection of the child care facility, conducted by a certified fire inspector of the Hailey fire department, establishing compliance with the standards specified in Idaho Code Section 39-1101, et seq.; and

b. Proof of a health inspection of the child care facility, conducted by the district health department establishing compliance with the minimum standards specified in Idaho Code Section 39-1101, et seq.

c. Proof of a criminal history check conducted by the Department of Health and Welfare as set forth in Idaho Code Section 39-1101, et seq., on owners, operators, directors, staff, and volunteers of the child care facility who have contact with children, and on all other individuals twelve years of age or older who have unsupervised direct contact with children in a child care facility.

2. Proof that all staff at the child care facility hold current certification of completion of both infant/pediatric first aid and infant/pediatric CPR, including rescue breathing. In addition to such first aid and CPR, proof of at least four hours of annual additional child care training by all staff of the child care facility. The training must be from the Idaho State Training & Registry System (Idaho STARS), an Idaho STARS-approved provider, or an Idaho STARS-approved online program such as childcaretraining.org; or another suitable training source of equal or better quality. (Ord. 1004 §4, 2008; Ord. 740 §1 (part), 1999)

5.03.060 Issuance of license. A. Upon receipt of a complete application, the city shall, upon a finding of compliance, issue a Hailey child care license to the applicant. The license shall be valid for two years and shall be posted in a conspicuous place at the child care facility.

B. The city shall maintain a list of all licensees for public use. (Ord. 740 §1, (part), 1999)

5.03.070 Fees. The city council of the city of Hailey shall establish fees to be assessed for the issuance and renewal of a Hailey child care license. Such fees shall be collected at the time of application and renewal. (Ord. 1004 §5, 2008; Ord. 740 §1 (part), 1999)

5.03.080 Renewal of license. The Hailey child care license shall be renewed every two years. (Ord. 740 §1 (part), 1999)

5.03.090 Immunization. A. Within fourteen days of a child's initial attendance at a child care facility, the child's parent or guardian shall provide a statement to the operator of the facility regarding the child's immunity to certain childhood diseases. This statement shall provide a certificate signed by a physician or a representative of a health district, that the child has received, or is in the process of receiving, immunizations as specified by the Board of Health and Welfare of the state of Idaho; or can effectively demonstrate, through verification in a form approved by the Idaho Department of Health Welfare, immunity gained through prior contraction of the disease.

B. Any minor child whose parent or guardian has submitted to a child care facility a certificate signed by a physician licensed by the State Board of Medicine stating that the physical condition of the child is such that all or any of the required immunizations would endanger the life or health of the child shall be exempt from the provisions of this section. Any minor child whose parent or guardian has submitted a signed statement to the child care facility stating their objections on religious or other grounds shall be exempt from the provisions of this section. (Ord. 740 §1 (part), 1999)

5.03.100 Compliance with applicable fire and safety standards. Child care facilities shall at all times maintain compliance with the fire safety and health requirements set forth in this chapter and Idaho Code Sections 39-1109 and 39-1110. (Ord. 740 §1 (part), 1999)

5.03.110 Denial, suspension or revocation of license. A. A Hailey child care license may be denied, suspended or revoked by the city if the city finds that the applicant or licensee has not complied with the provisions of this chapter.

B. Such denial, revocation, or suspension may be appealed to the Hailey city council. (Ord. 740 §1 (part), 1999)

5.03.120 Enforcement. A. Civil Liability. The city attorney shall, at the direction of the city council, institute civil suit in the name of the city to enforce compliance with the provisions of this chapter by injunctive relief, declaratory relief, or other civil remedy. The city shall be entitled to recover its costs and attorneys' fees from the other party upon prevailing in any such civil action. No civil judgment, or any act by the city, or the violator, shall bar or prevent a criminal prosecution for each and every violation of this chapter.

B. Criminal Liability. A person who violates any provision of this chapter or who operates any child care facility without having first obtained a valid license, as herein provided, shall be guilty of a misdemeanor punishable by a fine not to exceed three hundred dollars, or imprisonment for not more than thirty days, or both. Each day that a violation of this chapter occurs shall be a separate offense. (Ord. 740 §1 (part), 1999)

Chapter 5.04LIQUOR SALES AND REGULATIONSSections:

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5.04.030	License–Fee–Period.
5.04.040	License–Application.
5.04.050	License–Investigation of applicants.
5.04.060	Form of license–Expiration.
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5.04.120	Revocation and suspension of license.
5.04.130	Violation–Misdemeanor.
5.04.135	Selling liquor without license–Penalty.

5.04.010 Definitions. For the purpose of this chapter the definitions contained in Idaho Code Section 23-901 et seq., are incorporated in this section and made part of this chapter. (Ord. 747 §1, 2000; Ord. 211 §1, 1947)

5.04.020 License issuance. The city council, at a regular or special meeting, shall issue licenses to qualified applicants, as provided in this chapter, whereby the licensee shall be authorized and permitted to sell liquor by the drink at retail and, upon the issuance of such license, the licensee therein named shall be authorized to sell liquor at retail by the drink, but only in accordance with the provisions of this chapter. (Ord. 211 §2, 1947)

5.04.030 License–Fee–Period. All licenses shall be granted by the mayor and city council for a period of one year beginning September 1st, and ending August 31st of the following year. A full year’s license fee shall be collected for licenses granted between September 1st and May 31st. License fees shall be set in accordance with Idaho Code Sections 23-904 and 23-916. No license shall be issued to a retailer who has not obtained a county license from the Blaine County board of county commissioners. For the period between June 1st and September 1st, the license fee shall be forty percent of the annual license fee. The city council shall grant or deny the application within thirty days

of the time it is filed with the city clerk. Prior to any revocation or suspension, the licensee shall be afforded a hearing according to Idaho Code Section 23-933 (B).

Whenever the mayor and city council deny an application, they shall specify in writing:

A. The statutes, ordinances and standards used in evaluating the application;

B. The reasons for the denial; and.

C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof. In all cases where the city council is considering application for licenses, transfers, or renewals thereof, a transcribeable verbatim record of the proceeding shall be made. If the application for a license, transfer or renewal is denied, a transcribeable verbatim record of the proceedings shall be kept for a period of not less than six months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (Ord. 1004 §6, 2008; Ord. 747 §2, 2000; amended during 1992 codification; Ord. 490 §1 (part), 1984)

5.04.040 License–Application. A. Each applicant for a license shall file with the city clerk an application verified by affidavit setting forth the following facts:

1. Description of the premises for which a license is sought and its location, and name of the owner of said premises;

2. A detailed statement of the assets and liabilities of the applicant;

3. The names and addresses of all persons who will have any financial interest in any business to be carried on, in, and upon the licensed premises, whether such interest results from open loans, mortgages, conditional sales contracts, silent partnerships, trusts, or any other basis than open trade accounts incurred in the ordinary course of business, and the amounts of such interests;

4. If premises to be licensed are not owned by the applicant, then a certified copy of the lease by which he will occupy the premises showing that the owner consents to the sale of liquor by the drink on such premises;

5. The name and address of the applicant, which shall include all members of a partnership or association and the officers, members of the governing board and ten principal stockholders of a corporation;

6. A copy of the articles of incorporation and bylaws of any corporation, the articles of association and bylaws of any association, or the articles of partnership of any partnership;

7. If during the period of any license issued hereunder the licensee seeks to move his business from one premise to another in the same city, he may do so subject to the city's approval that the new premises is suitable for the carrying on of the business;

8. Such application shall be accompanied with the license issued by the Director of the Department of Law Enforcement of the state for the premises and for the time for which the application is made, which license shall be returned to the applicant after examination by the city clerk;

9. The application shall be accompanied with the license issued by the board of county commissioners for the premises and for the time for which the application is made, which license shall be returned to the applicant after examination by the city clerk

B. If any false statement is made in any part of said application, or any subsequent report, the applicant or applicants, shall be deemed guilty of a felony and upon conviction thereof shall be imprisoned in the state prison for not less than one year nor more than five years and fined not less than one thousand dollars nor more than five thousand dollars, or both such fine and imprisonment. (Ord. 771 §1, 2001; Ord 747 §3, 2000; Ord. 211 §4, 1947)

5.04.050 License–Investigation of applicants. No license shall be granted under this chapter until there has been an investigation by the police department of all applications under this chapter. After investigation, the applications will be forwarded to the city council with a recommendation from the chief of police. If the chief of police recommended that an application be denied, he shall state in writing:

- A. The statutes or ordinances and standards used in evaluating the application;
- B. The reason for the denial; and
- C. The action, if any, that the applicant could take to obtain the license, transfer or renewal thereof. (Ord. 490 §2 (part), 1984)

5.04.060 Form of license–Expiration. A. Every license issued under this chapter shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises; if issued to a partnership, the names of the persons constituting the partnership shall be set forth. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth. An application to transfer any license issued pursuant to Chapter 9, Title 23, Idaho Code, shall be made to the city. Upon receipt of such an application, the city shall make the same investigation and determinations with respect to the transferee as are required by this chapter, and if the city shall determine that all of the conditions required of a licensee under this chapter, have been met by the proposed transferee, then the license shall be endorsed over to the proposed transferee by said licensee for the remainder of the period for which such license has been issued and the city shall issue a license to the transferee.

B. Every license issued under the provisions of this chapter is separate and distinct and no person except the licensee therein named shall exercise any of the privileges granted there under and all licenses are applicable only to the premises in respect to which issued.

C. All licenses shall expire at one a.m. on the following September 1st and shall be subject to renewal upon proper application. Renewal applications for liquor by the drink licenses accompanied by the required fee must be filed with the city on or before the following September 1st of the following year, provided, however, any licensee holding a valid license who fails to file an application for renewal of his current license on or before the following September 1st of the following year shall have a grace period of an additional thirty-one days in which to file an application for renewal of his license and during which time he shall not be permitted to sell and dispense liquor by the drink at retail.

D. No person shall be granted more than one license for any city for any year; and no partnership association or corporation holding a license under the provisions of this chapter shall have as a member, officer or stockholder any person who has any financial interest of any kind in, or is a member of, another partnership or association or an officer of another corporation holding a license for the same year; provided that this section shall not prevent any person, firm or corporation, owning two or more buildings on connected property in the city from making application for and receiving licenses permitting the sale of liquor by the drink in such building. (Ord. 1004 §7, 2008; Ord. 747 §4, 2000; Ord. 211 §6, 1947)

5.04.070 Persons not qualified to be licensed. Pursuant to Idaho Code Section 23-910, no license shall be issued to:

A. Any person, or any one of its members, officers, or governing board, who has, within three years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances of any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor or beer; or who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five years prior to the date of making application for any license;

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

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

D. Any officer, agent, or employee of any distillery, winery, brewery, or any wholesaler, or jobber, of liquor or malt beverages, except as provided in Idaho Code Section 23-912. This prohibition shall not apply to officers, agents, or employees of any winery operating a golf course on the same premises as the winery;

E. A person who does not hold a retail beer license issued under the laws of the state of Idaho;

F. Any person under the age of nineteen years;

G. Any person who is not the bona fide owner of such business;

H. Any person who is not a citizen of the United States, or has not been a bona fide resident of the state for at least thirty days preceding the date of application for a license; or

1. If a partnership: all members thereof shall be citizens of the United States and have been bona fide residents of the state for at least thirty days preceding the date of application for a license, or

2. If a corporation or association: organized under the laws of the state or qualified under the laws of the state to do business in the state, and the principal officers and the members of the governing board must be citizens of the United States and bona fide residents of the state for at least thirty days next preceding the date of application for such a license;

I. Has had a license revoked by the city, the state, or any city and county of this state; was a member of partnership or association whose license has been revoked by the city, the state, or any city and county of this state; has an employee, officer or member of the governing board, or one of the principal stockholders of a corporation licensed to sell alcoholic beverages at retail and whose license has been revoked by this city, the state or any city and county of this state.

The affirmative showing required with respect to qualifications of an applicant shall also be made with the respect to each partner of a partnership applicant and to each incumbent officer, director or member of the governing board of a corporation or association applicant, and to each person then employed by an applicant whose duties include the serving or dispensing of alcoholic beverages.

Any license, held by any licensee disqualified under the provisions of this section from being issued a license, shall forthwith be revoked. (Ord. 747 §5, 2000; Ord. 211 §8, 1947)

5.04.080 Sanitary requirements. Any licensed premises shall be maintained in a sanitary condition. (Ord. 747 §6, 2000; Ord. 211 §8, 1947)

5.04.085 Restriction on manufacturers, transporters, distillers, or persons interested in premises. A. No manufacturer, rectifier, wholesaler, stockholder, shareholder, partner or the owner of any other interest in any corporation, association or partnership financially interested in the manufacture, transportation (except public carriers), or sale of liquor shall hold any interest in any premises licensed hereunder for the sale of liquor or receive any rental or enumeration from any such premises.

B. No manufacturer, rectifier, wholesaler, stockholder, shareholder, partner or the owner of any other interest in any corporation, association or partnership financially interested in the manufacture, transportation or sale of liquor shall furnish, give, rent, lend or sell any equipment or fixtures directly or indirectly, or through a subsidiary or affiliate or by any officer, director, or firm member of the industry or otherwise furnish financial aid to any person engaged in the sale of liquor hereunder and no licensee hereunder shall receive or be the beneficiary of any of the benefits hereby prohibited. (Ord. 747 §7, 2000)

5.04.090 Licensed premises not allowed near certain uses. No license shall be issued for any premises in any neighborhood which is predominantly residential or within three hundred feet of any public school, church or any other place of worship, measured in a straight line to the nearest entrance to the licensed premises; provided that this limitation shall not apply to any duly licensed premises that at the time of licensing did not come within the restricted area but subsequent to licensing the same. (Ord. 211 §9, 1947)

5.04.100 Examination of premises. A. Any duly authorized police officer of the city shall have the right at any time to make an examination of the premises of any licensee as to whether the laws of the state and ordinances of the city are being complied with.

B. Any police officer for the city who should find any liquor kept or held by any person in violation of the provisions of this chapter or Idaho Code Section 23-901, et seq., may forthwith seize and remove the same and keep the same as evidence. (Ord. 747 §8, 2000; Ord. 211 §10, 1947)

5.04.105 Hours of sale of liquor. A. No liquor shall be sold, offered for sale, or given away upon any licensed premises, and all liquor not in sealed bottles must be locked in a separate room or cabinet, during the following hours:

1. Christmas from two a.m., to ten a.m. the following day;
2. On any other day between two a.m. and ten a.m. (Ord. 1019 §1, 2008; Ord. 747 §, 2000)

B. Any patron present on the licensed premises after the sale of liquor has stopped as provided in subsection A of this section shall have a reasonable time, not to exceed thirty minutes, to consume any beverages already served.

C. Any person who consumes or intentionally permits the consumption of any alcoholic beverage upon licensed premises after the time provided for in subsections A and B of this section shall be guilty of a misdemeanor.

D. It shall be the duty of every person who is employed at or upon a licensed premises or who owns or manages a licensed premises and is present upon the licensed premises during the hours and at the time set forth in subsection A of this section to lock up and keep locked up in a locked room or locked cabinet all unsealed containers of liquor during the hours and at the times set forth in subsection A of this section, and any such person who fails to perform the duty provided herein shall be guilty of a misdemeanor. (Ord. 747 §8, 2000)

5.04.110 Restriction of sales by licensee. A. No licensee or his or its employed agents, servants or bartenders shall sell, deliver or give away, or cause or permit to be sold, delivered, or given away, any liquor to:

1. Any person under the age of twenty-one years, proof of which shall be a validly issued state, district, territorial, possession, provincial, national, or other equivalent government drivers license, identification card or military identification card bearing a photograph and date of birth or a valid passport;

2. Any person actually, apparently or obviously intoxicated;

3. An habitual drunkard;

4. An interdicted person.

B. It shall be unlawful for any licensee to sell, keep for sale, dispense, give away, or otherwise dispose of any liquor in the original containers or otherwise done by retail sale by the drink.

C. It shall be unlawful for any licensee to sell, give away, dispense, vend, or deliver any liquor in any fashion or by means or devise, except upon the licensed premises.

D. It shall be unlawful for any licensee to permit, conduct, play, carry on, open or cause to be opened any gaming in or upon the licensed premises or in or upon any premises directly connected by a door, hallway, or other means of access from the licensed premises. Any license authorized under Idaho law to conduct lawful activities of lottery, bingo, raffles, and pari-mutuel betting on the licensed premises shall be exempt from the provisions of this section so long as the lawful activities are conducted in accordance with statute and rules promulgated pursuant thereto. (Ord. 747 §10, 2000; amended during 1992 codification; Ord. 211 §12, 1947)

5.04.115 Purchase by unqualified person. Any person under the age of twenty-one years who knowingly misrepresents his or her qualifications for the purpose of obtaining liquor from such licensee shall be equally guilty with such licensee and shall upon conviction thereof be guilty of a misdemeanor. (Amended during 1992 codification; Ord. 211 §13, 1947)

5.04.120 Revocation and suspension of license. A. The right shall be and at all times remain vested in the city council to revoke or suspend the license of any person licensed under this chapter for any violation of this chapter, and upon verified complaint filed with the city council, the city council shall cause such alleged offender to appear before the city council, and be heard upon said complaint; a copy of said complaint shall be served with said notice, and the day and hour of the hearing, which shall be at least five days thence, shall be specified in such notice, and if at said hearing upon the taking of evidence on behalf of the city and such offender it appears to the city council that cause exists for the suspension or revocation of such license, the same may be suspended or revoked without further process of law, and upon such suspension or revocation, no refund of any unexpired portion of the license fee shall be made to the licensee.

B. The revocation or suspension of the license for the sale of beer or wine shall automatically result in the revocation or suspension of any license for the sale of liquor held by the same licensee and issued for the same premises or location. Such additional revocation or suspension shall be equal in length to and run concurrently with the period of the original revocation or suspension.

C. When a proceeding to revoke or suspend a license has been or is about to be instituted, during the time a renewal application of such license is pending before the city, the city shall renew the license notwithstanding the pending proceedings, but such renewal license may be revoked or suspended without hearing if and when the previous license is, for any reason, revoked or suspended.

D. In the event of a conviction for a violation of Chapter 41, Title 18, Idaho Code, relating to obscenity by any licensee, or agent or licensee, or employer or licensee, if such licensee knew or should have known, in the exercise of reasonable diligence, that said agent or employee was violating the provisions of Chapter 41, Title 18, Idaho Code, and if the violation committed by any of the above occurred on, or in connection with, premises licensed under this act by such licensee, the city shall suspend the license of such licensee for a period of six months. If such licensee, or his agent or employee, has previously been convicted of violation of Chapter 41, Title 18, Idaho Code, relating to obscenity, which violation occurred on, or in connection with, the premises licensed under this chapter by such licensee, the city shall revoke the license of such licensee. (Ord. 747 §11, 2000; Ord. 211 §14, 1947)

5.04.130 Violation–Misdemeanor. A. Any violation of the provisions of this act by the licensee or any agent, employee, servant, or any other person in any way acting in behalf of the licensee, except where a specific penalty is provided, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than the sum one hundred dollars, nor more than three hundred dollars or be imprisoned in the county jail for not less than thirty days nor more than six months, or both such fine and imprisonment.

B. Any violation of the provisions of this chapter or of any rule or regulation of the Director of Law Enforcement promulgated pursuant to Idaho Code Section 23-901 et seq., shall constitute a moral nuisance under the provision of Idaho Code Section 52-204. (Ord. 747 §12, 2000; amended during 1992 codification; Ord. 211 §15, 1947)

5.04.135 Selling liquor without license–Penalty. Any person who sells or keeps for sale any liquor without a license as provided in this chapter shall be guilty of a felony and upon conviction thereof shall be fined not less than one thousand dollars nor more than five thousand dollars, or be imprisoned in the state prison for not less than one year nor more than five years or both such fine and imprisonment as set forth in Idaho Code Section 23-938. (Ord. 747 §13, 2000)

Chapter 5.08

BEER SALES AND REGULATIONS

Sections:

- 5.08.010 Definitions.
- 5.08.020 License–Fee–Period.
- 5.08.030 Investigation of applicants.
- 5.08.040 Violation–Penalty.

5.08.010 Definitions. For purposes of this chapter the following words and phrases mean as set out in this section:

“Beer” means any beverage obtained by the alcoholic fermentation of any infusion of barley, malt, and/or other ingredients in drinkable water.

“Person” includes any individual, firm, copartnership, association or any group or combination acting as a unit, and the plural as well as the singular number unless the intent to give a more limited meaning is disclosed by the context.

“Retailer” means any person engaged in the sale or distribution of beer to the consumer. (Ord. 157 §1, 1936)

5.08.020 License–Fee–Period. All licenses shall be granted by the mayor and council for a period of one year beginning September 1st and ending August 31st. A full year’s license fee shall be collected for licenses granted between September 1st and May 31st. For the period between June 1st and September 1st, the license fee shall be forty percent of the annual license fee. The city council shall grant or deny the application within thirty days of the time it is file with the city clerk. Prior to any revocation or suspension, the licensee shall be afforded a hearing according to Section 23-1016 of the Idaho Code. Whenever the mayor and city council denies an application, they shall specify in writing:

- A. The statutes, ordinances and standards used in evaluating the application;
- B. The reasons for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

In all cases where the city council is considering applications for licenses, transfers, or renewals thereof, a transcribable verbatim record of the proceeding shall be made. If the applicant for a license, transfer or renewal is denied, a transcribable verbatim record of the proceedings shall be kept for a period of not less than six months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (Ord. 1004 §8, 2008; Ord. 490 §1 (part), 1984; Ord. 484 §1, 1984; Ord. 476 (part), 1983; Ord. 157 §2, 1936)

5.08.030 Investigation of applicants. No license shall be granted under this chapter until there has been an investigation by the police department of all applications under this chapter. After investigation, the applications will be forwarded to the city council with a recommendation from the chief of police. If the chief of police recommended that an application be denied, he shall state in writing:

- A. The statutes or ordinances and standards used in evaluating the application;
- B. The reason for the denial; and
- C. The action, if any, that the applicant could take to obtain the license, transfer or renewal thereof. (Ord. 490 §2 (part), 1984)

5.08.040 License–Expiration and Renewal. All licenses shall expire at one a.m. on the following September 1st, and shall be subject to annual renewal upon proper application. Renewal applications for licenses accompanied by the required fee must be filed with the city on or before the following September 1st, provided, however, any licensee holding a valid license who fails to file an application for renewal of the current license on or before the following September 1st shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell beer at retail during the thirty-one (31) day extended time period unless and until the license is renewed. (Ord. 1004 §9, 2008)

5.08.050 Violation–Penalty. Any person violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding one hundred dollars and costs, and in case of default in the payment of such fine and costs shall be subject to imprisonment until such fine and costs are paid, as provided by law. (Ord. 1004 §10, 2008; Ord. 157 §3, 1936)

Chapter 5.12

WINE SALES AND REGULATIONS

Sections:

5.12.010	Definitions.
5.12.020	License required.
5.12.030	Application for license.
5.12.040	Qualifications.
5.12.050	License–Fee–Period.
5.12.060	Issuance of license.
5.12.070	License–Investigation of applicants.
5.12.080	License restrictions.
5.12.090	Consumption on premises.
5.12.100	Misrepresentation of age.
5.12.110	Possession–Restrictions.
5.12.120	Revocation of license.
5.12.130	Violation–Penalty.

5.12.010 Definitions. The following terms as used in this chapter are defined as follows:

“Department” means the Idaho Department of Law Enforcement.

“Person” includes an individual, firm, copartnership, association, corporation, or any group or combination acting as a unit, and includes the plural as well as the singular unless the intent to give a more limited meaning is disclosed by the context in which it is used.

Persons holding a valid wine-by-the-drink license may sell wine for consumption on the premises only, and such wine sold for consumption on the licensed premises may be sold only during the hours that beer can be sold pursuant to the laws of the state.

“Retail wine license” means a license issued by the department, authorizing a person to sell wine at retail.

“Retailer” means a person to whom a retail wine license has been issued.

“Wine” means any alcoholic beverage containing not more than fourteen percent alcohol by volume obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing sugar. Amended during 1992 codification; (Ord. 334 §1, 1973; Ord. 310 §1, 1971)

5.12.020 License required. It is lawful for any person to sell wine at retail within the corporate limits of the city after having first procured a license therefor. (Ord 310 §2, 1971)

5.12.030 Application for license. Applications for licenses shall be in writing, signed and sworn to by the applicant upon application forms furnished by the clerk. Such application shall be filed by the clerk and presented to the mayor and council at the next meeting of the council for their approval, rejection or further consideration. (Ord. 310 §3, 1971)

5.12.040 Qualifications. The applicant for a license shall possess all of the qualifications necessary to obtain a license from the Department of Law Enforcement of the state, as prescribed by the laws of the state, and maintain such qualifications throughout the period for which such license is issued. The possession of licenses regularly issued by the Department of Law Enforcement and the county in addition to a city beer license, shall be prima facie evidence of the applicant's qualifications to receive a license under this chapter. Amended during 1992 codification; (Ord. 310 §4, 1971)

5.12.050 License–Fee–Period. All licenses shall be granted by the mayor and council for a period of one year beginning September 1st and ending August 31st. A full year's license fee shall be collected for licenses granted between September 1st and May 31st. For the period between June 1st and August 31st, the license fee shall be forty percent of the annual license fee. The city council shall grant or deny the application within thirty days of the time it is filed with the city clerk. Prior to any revocation or suspension, the licensee shall be afforded a hearing according to Section 23-1016 of the Idaho Code. Whenever the mayor and city council denies an application, they shall specify in writing:

- A. The statutes, ordinances and standards used in evaluating the application;
- B. The reasons for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

In all cases where the city council is considering applications for licenses, transfers, or renewals thereof, a transcribeable verbatim record of the proceeding shall be made. If the applicant for a license, transfer or renewal is denied, a transcribeable verbatim record of the proceedings shall be kept for a period of not less than six months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (Ord. 1004 §11, 2008; Ord. 490 §1 (part), 1984; Ord. 476 (part), 1983; Ord. 310 §5, 1971)

5.12.060 Issuance of license. Upon filing the application for a license and production of evidence as required by Section 5.12.040 of this chapter as to the qualifications of the applicant and by the payment of the required license fee, the city will issue to the applicant a license to sell wine at retail within the municipality under the license period set forth in 5.12.050 above. (Ord. 1004 §12, 2008; Ord. 310 §6, 1971)

5.12.070 License--Investigation of applicants. No license shall be granted under this chapter until there has been an investigation by the police department of all applications under this chapter. After investigation, the applications will be forwarded to the city council with a recommendation from the chief of police. If the chief of police recommended that an application be denied, he shall state in writing:

- A. The statutes or ordinances and standards used in evaluating the application;
- B. The reason for the denial; and
- C. The action, if any, that the applicant could take to obtain the license, transfer or renewal thereof. (Ord. 490 §2 (part), 1971)

5.12.080 License–Expiration and Renewal. All licenses shall expire at one a.m. on the following September 1st and shall be subject to annual renewal upon proper application. Renewal applications for licenses accompanied by the required fee must be filed with the city on or before the following September 1st, provided, however, any licensee holding a valid license who fails to file an application for renewal of the current license on or before the following September 1st shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell beer at retail during the thirty-one (31) day extended time period unless and until the license is renewed. (Ord. 1004 §13, 2008; Ord. 310 §7, 1971)

5.12.090 Consumption on premises. Retailers holding a valid wine by the drink license may sell wine for consumption on the premises only. Retailers who do not possess a valid wine by the drink license, shall not permit consumption of wine on the licensed premises but may sell the wine only in its original unbroken container. Wine sold for consumption or dispensed on the licensed premises may be sold, consumed or dispensed pursuant to the laws of the state. Wine sold by the retailer for consumption off the premises of the retailer may be sold only during the hours that beer may be sold pursuant to the laws of the state. (Ord. 1004 §14, 2008; Ord. 310 §8, 1971)

5.12.100 Misrepresentation of age. A. No person under the age of twenty-one years of age may purchase, consume or possess wine.

B. No person shall give, sell, or deliver wine to any person under the age of twenty-one years.

C. No person under the age of twenty-one years shall by any means represent to any retailer or distributor or to any agent or employee of such retailer or distributor that he or she is twenty-one years or more of age for the purpose of inducing such retailer or distributor, or his agent or employee, to sell, serve or dispense wine to such person.

D. No person shall by any means represent to any retailer or distributor or the agent or employee of such retailer or distributor, that any other person is twenty-one years or more of age, when in fact such person is under the age of twenty-one years, for the purpose of inducing such retailer or distributor, or the agent or employee of such distributor, to sell, serve or dispense wine to such other person. (Ord. 310 §10, 1971)

5.12.110 Possession–Restrictions. No person may, while operating or riding in or upon a motor vehicle upon a public street of the city, have in his possession any wine in an open or unsealed container of any kind. (Ord. 310 §9, 1971)

5.12.120 Revocation of license. The right shall be and remain at all times vested in the mayor and council, and the mayor and council may, as provided in this section, revoke or cancel any license for fraud or misrepresentation in its procurement, or for a violation of any of the provisions of this chapter, or for any conduct or act of the licensee or his employees or any conduct or act permitted by him or them on the premises where such business is conducted, or in connection therewith or adjacent thereto, tending to render such business or such premises where the same is conducted as a public nuisance or a menace to the health, peace, safety or general welfare of the city; provided, that revocation or suspension of the state license by the Department of Law Enforcement shall be deemed prima facie evidence for revocation or suspension of the license issued under this chapter. (Amended during 1992 codification; Ord. 310 §11, 1971)

5.12.130 Violation–Penalty. Any person who violates any of the provisions of this chapter or fails to comply with any of the terms and conditions of this chapter shall be guilty of a misdemeanor. (Ord. 310 §12, 1971)

Chapter 5.13

BEVERAGE CATERING PERMITS

Sections:

- 5.13.010 Definitions.
- 5.13.020 Application–Fee–Period.
- 5.13.030 Application–Approval–Denial.
- 5.13.040 Permit display–Required.
- 5.13.050 Persons not qualified to be issued permit.
- 5.13.060 Restriction of sales by beverage permit holder.
- 5.13.070 Sanitary requirements.
- 5.13.080 Dates–Hours of sale of liquor, wine and beer.
- 5.13.090 Examination of premises.
- 5.13.100 Suspension and revocation of beverage catering permit.
- 5.13.110 Regulatory and penalty provisions applicable.

5.13.010 Definitions. For the purpose of this chapter the definitions contained in Idaho Code Section 23-901 et seq., are incorporated in this section and made a part of this chapter. (Ord. 759 §1, 2000)

5.13.020 Application–Fee–Period. A. All persons who serve and sell liquor by the drink, beer and wine, or beer, or wine, at a party, convention or similar event to take place within the city, shall obtain an alcohol beverage catering permit issued pursuant to this chapter. An alcohol beverage catering permit shall be limited to authorization to sell liquor, beer or wine, or any combination thereof, for a period not to exceed three consecutive days. Further, the permit shall be limited to authorization to sell liquor, beer or wine, or any combination thereof, based upon the type of license which the applicant possesses. Applications for such permit shall be made to the city, on such form as prescribed by the city, which shall contain at a minimum, but not be limited to, the following information:

1. The name and address of the applicant and the number of his/her state liquor, beer or wine license;
2. The dates and hours during which the permit is to be effective, not to exceed three consecutive days;
3. The names of the organizations, groups, or persons sponsoring the event; and the name of the applicant's designee who will be present at the event;
4. The address at which the liquor, beer or wine is to be served, and if a public building, the rooms in which the liquor, beer or wine is to be served. If the location or premises upon which the liquor, beer or wine is to be served is not owned by the applicant, a certified copy of the lease or consent to occupy the premises and a showing of proof that the owner consents to the service and sale of alcoholic beverages on such premises must be included with the application.

B. The application shall be verified by the applicant and filed with the city clerk not less than fourteen days prior to the catering date(s) requested. Failure to complete the required portions of the application may result in a denial of the application.

C. The application shall be accompanied by a filing fee in the amount of twenty dollars for each day the permit is to be in effect and such fee shall be paid to the city and shall not be refunded in any event.

D. Any alcohol catering permit issued by the city, shall be valid only under the conditions and terms approved by the city council and be valid only within the city limits.

E. A catering permit issued pursuant to this chapter is nontransferable.
(Ord. 1004 §15, 2008; Ord. 759 §2, 2000)

5.13.030 Application–Approval–Denial. A. Upon the filing of an application for an alcohol beverage catering permit, the chief of police shall approve or disapprove the application and indicate the determination on the face of the application. A copy of the application, with endorsement thereon, shall be mailed or delivered immediately to the applicant, and the signed original retained by the city clerk. An application approved in this manner shall constitute an alcohol beverage catering permit.

B. The chief of police shall run a background check of the applicant and shall verify compliance with the provisions set forth in this chapter.

C. The chief of police may deny a catering permit to protect the health, safety, and welfare of the public, to prevent unlawful disturbances or public nuisance, or to promote and carry out the policies of the city.

D. The chief of police may, upon good cause shown, require different conditions, terms, or a reduction in the number of requested dates or times for a catering permit as determined reasonable to carry out the policies of the city, which include protection of the health, safety and welfare of the public, or to prevent an unlawful disturbance or nuisance. Such conditions may include execution of an indemnification agreement; posting of appropriate signs; and hiring at the applicant's expense of additional bonded security personnel.

E. In the case of a denial or revision, the applicant may appeal the decision to the Hailey City Council. (Ord. 1004, §16, 2008; Ord. 759 §3, 2000)

5.13.040 Permit display–Required. The applicant or the applicant's designee is required to carry, display or post the original alcohol beverage catering permit issued hereunder and must be personally present at the approved catering premises at all times during the term of the catering permit. The applicant's designee on the application shall also be approved in the same manner as described herein for the applicant. (Ord. 1004 §17, 2008; Ord. 759 §4, 2000)

5.13.050 Persons not qualified to be issued permit. No alcohol beverage catering permit authorized by this chapter shall be issued to:

A. Any person, or any one of its members, officers, or governing board, who has, within three years prior to the date of making application, been convicted of any violation of the laws of the United States, the state of Idaho, or any other state of the United States, or of the resolutions or ordinances or any county or city of this state, relating to the importation, transportation, manufacture or sale of alcoholic liquor, wine, or beer;

B. Any person who has been convicted of, paid any fine, been placed on probation, received a deferred sentence, received a withheld judgment or completed any sentence of confinement for any felony within five years prior to the date of making application for any license;

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

D. A person whose license to sell liquor has been revoked; an individual who was a member of a partnership or association whose license has been revoked; an individual who was an officer, member of the governing board or one of the ten principal stockholders of a corporation whose license has been revoked; a partnership or association one of whose members' license has been revoked; a corporation one of whose officers', member of the governing board or ten principal stockholders' license has been revoked; an association or partnership, one of whose members was a member of a partnership or association whose license has been revoked; a partnership or association,

one of whose members was an officer, a member of the governing board, or one of the ten principal stockholders of a corporation whose license has been revoked; a corporation, one of whose officers, member of the governing board, or ten principal stockholders was a member of a partnership or association whose license has been revoked; a corporation, one of whose officers, member of the governing board, or ten principal stockholders was an officer, member of the governing board, or one of the ten principal stockholders of a corporation whose license has been revoked. (Ord. 759 §5, 2000)

5.13.060 Restriction of sales by beverage permit holder. A. No permit holder or his or its employed agents, servants or bartenders shall sell, deliver or give away, or cause or permit to be sold, delivered, or given away, any liquor, beer or wine or any combination thereof to:

1. Any person under the age of twenty-one years, proof of which shall be a validly issued state, district, territorial, possession, provincial, national, or other equivalent government drivers license, identification card or military identification card bearing a photograph and date of birth or a valid passport;

2. Any person actually, apparently or obviously intoxicated;

3. An habitual drunkard;

4. An interdicted person.

B. It shall be unlawful for any permit holder to sell, keep for sale, dispense, give away, or otherwise dispose of any liquor, beer or wine or any combination thereof in the original containers.

C. It shall be unlawful for any permit holder to sell, give away, dispense, vend, or deliver any liquor, beer or wine or any combination thereof, in any fashion or by means or devise, except upon the premises for which the permit is issued.

D. It shall be unlawful for any permit holder to permit, conduct, play, carry on, open or cause to be opened any gaming in or upon the licensed premise or in or upon any premises directly connected by a door, hallway, or other means of access from the permit premises; provided, however, that the city may authorize any form of gaming upon the premises only as permitted by and licensed under the laws of the state of Idaho. (Ord. 759 §6, 2000)

5.13.070 Sanitary requirements. Any premises used for the purpose of a beverage catering permit shall be maintained in a sanitary condition throughout the dates and hours during which the permit is to be effective. (Ord. 759 §7, 2000)

5.13.080 Dates–Hours of sale of liquor, wine and beer. No liquor, wine or beer or any combination thereof, shall be sold, offered for sale, or given away by any permit holder upon any permit premises, other than the dates and hours during which the permit is to be effective. (Ord. 759 §8, 2000)

5.13.090 Examination of premises. A. Any duly authorized police officer of the city shall have the right at any time to make an examination of the premises of any beverage catering permit holder as to whether the laws of the state and the ordinances of the city are being complied with.

B. Any police officer of the city who should find any liquor, beer or wine or any combination thereof, kept or held by any person in violation of the provisions of this chapter or Idaho Code Section 23-901, et seq., may forthwith seize and remove the same and keep the same as evidence and upon conviction of the person for violation of the provisions hereof, the said liquor, beer or wine and all packages or receptacles containing the same shall be forfeited to the state of Idaho and, in addition, the person so violating this chapter or Idaho Code Section 23-901, et seq., shall be subject to the other penalties herein prescribed. (Ord. 759 §9, 2000)

5.13.100 Suspension and revocation of beverage catering permit. A. The right shall be and at all times remains vested in the city council to revoke or suspend the beverage catering permit of any organizations, groups, or persons under this chapter for any violation of this chapter.

B. Upon a showing of sufficient cause to believe that the holder of a beverage catering permit has in any way violated this chapter, the city may revoke or suspend said permit by:

1. Notifying the permittee by certified mail, personal service, or substitute service of the grounds for said suspension and of the permittee's opportunity to appeal said denial to the city council. The notification shall be sent to the permittee's last known address of record;

2. The suspension notice should include explicit grounds for the suspension and any documents used to support and justify the suspension. The notice should also include a statement that informs the permittee of his or her rights to a hearing before the city council to appeal the suspension;

3. The permittee, upon receiving notice of the suspension, may appeal said suspension by making application to the city clerk for a hearing before the city council within ten working days of receipt of the above stated notice.

C. Failure of a person to actually receive a notice sent or served shall not invalidate said suspension or revocation. In such a case, the permittee shall have fifteen days from the date the notice was mailed to file an appeal with the city clerk.

D. Where there exists a clear endangerment to the health, safety and welfare of the public resulting from the use of the permit, in addition to the applicant's or his/her agents' failure to perform in conformance with the conditions and terms set forth on the permit and pursuant to this chapter, the city council or the police chief may revoke the catering permit issued under the provisions of this section by immediately demanding and seizing the permit from the applicant or the applicant's designee. Upon receipt of the revoked permit, or where the permit cannot be seized due to unavailability of the applicant, or where the applicant or co-applicant refuses to surrender said permit, the chief of policy may direct the seizure of all alcoholic beverages and remove the same and keep the same as evidence, and upon conviction of the person for violation of the provisions hereof, the said liquor and all packages, or receptacles containing the same, shall be forfeited to the state of Idaho. (Ord. 759 §10, 2000)

5.13.110 Regulatory and penalty provisions applicable. All of the regulatory and penal provisions of Idaho Code Section 901 et seq., shall apply to the exercise of alcohol beverage catering permits, including the penalties for violations thereof, except such provisions declared to be inapplicable to alcohol beverage catering permits by rules prescribed by the Director of Law Enforcement for the state of Idaho. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. (Ord. 759 §11, 2000)

Chapter 5.16PEDDLERS, HAWKERS AND TRANSIENT MERCHANTSSections:

- 5.16.010 Definitions.
 5.16.020 Conduct of business on public streets and places–Prohibitions–
 Exceptions.
 5.16.050 Unlawful conduct–Enforcement.
 5.16.090 Violation–Penalty.

5.16.010 Definitions. For purposes of this chapter the following words and phrases mean as set out in this section:

“City” means the city of Hailey, Idaho.

“City clerk” means the duly appointed city clerk of the city, or his/her designee acting as the issuing officer.

“City council” means the duly elected city council of the city.

“Engage in” or “conduct business” mean the selling, soliciting, advertising or offering for sale of any items of personal property, or real property, or any interest therein.

“Not-for-profit business” means any organization exempt from taxation as provided by 26 USC 501 and meeting all the requirements for the exemption provided by USC 26 USC 503.

“Off-site location” means any premise or portion thereof which has not been authorized to conduct business pursuant to Section 5.02 of the Hailey Municipal Code.

“Persons” means any individual, including an employee or agent of an individual or group of individuals, corporation, partnership, joint venture, limited partnership, or any other business entity.

“Premise” means all real property and structures where any business or occupation is conducted.

“Private residence” means any property not dedicated to public use.

“Public street or place,” as used in this chapter, means any sidewalk, street, alley, highway, public right-of-way, park, parking lot, or other place owned in fee by the city, or in, on or over which an easement exists in the name of or held by the city, or which exists for the benefit and use of the public. (Ord. 872 §7, 2004; Ord. 806 §1, 2002; Ord. 513 §1, 1986)

5.16.020 Conduct of business on public streets and places–Prohibitions–
 Exceptions. A. It is unlawful for any person to engage in or conduct any business in, on, over or upon any public street or place within the city or to employ any person to engage in or conduct any business in, on, over or upon any public street or place within the city, except as provided in this chapter.

B. It is unlawful for any person to go in or upon private residences in the city, not having been requested or invited to do so by the owner or occupant of such private

residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise, or for the purpose of disposing of or peddling or hawking the same, except as provided in this chapter.

C. It is unlawful for any person to distribute to the public or place on any vehicle in the public streets or place any cards, circulars, handbills, samples of merchandise or any advertising matter whatsoever on any public street or place within the city, or to employ any person to do the same in, on, over or upon any public street or place within the city except as provided in this chapter.

D. It is unlawful for any person to engage in or conduct business on any off-site location within the city, or to employ any person to engage in or conduct any business on any off-site location within the city except as provided in this section.

E. Exceptions. The provisions of this chapter shall not apply to:

1. Traveling salespersons, commercial travelers or service providers who exclusively or primarily sell to, provide service to, or solicit orders for future delivery from local retailers, local businesses, local governments, local schools, or local wholesale firms, and catering services or service providers entering private property with the permission of the occupants for sale, service, or distribution to said occupants;

2. The sale and distribution of newspapers;

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

4. The sale of tickets by local school students to a function of their school or by not-for-profit business or service clubs to a function of their organization;

5. Any person engaged in political activities including funds or membership solicitations;

6. Any solicitation of information for a telephone book or a city directory by a company representative;

7. Sale of goods, services and foods associated with a business licensed under Chapter 5.02 of the Hailey Municipal Code.

8. Sales of goods, services, and food on public streets or places during an activity or event approved under Chapter 12.12 and/or Chapter 12.14 of the Hailey Municipal Code;

9. The handing out of business cards by an individual upon request of the receiving party;

10. Advertising materials displayed inside buses and taxies. (Ord. 872 §8, 2004; Ord. 851 §1, 2003; Ord. 806 §2, 2002; Ord. 513 §2, 1986)

5.16.050 Unlawful conduct–Enforcement. A. It is unlawful for a licensee under this chapter to do any of the following acts:

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. To go in or upon private residences within the city not having been requested or invited to do so by the owner or occupant or to enter in or upon any other premises when the same is posted with a sign stating "no peddlers allowed" or "no solicitors allowed" or other words to such effect;
7. Knowingly make any false statement on an application for any license;
8. To shout at or otherwise call out to individuals in order to attract their attention or engage in solicitation;
9. To engage in or conduct business by means of any sound amplification equipment, loudspeaker or similar device.

B. Enforcement. It is the duty of any police officer of the city to enforce this chapter. (Ord. 513 §5, 1986)

5.16.090 Violation–Penalty. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine of not more than three hundred dollars or imprisonment for a period not to exceed six months or both such fine and imprisonment. (Ord. 513 §9, 1986)

Chapter 5.20

VEHICLES FOR HIRE

Sections:

- 5.20.010 Purpose.
- 5.20.020 Definitions.
- 5.20.030 Business license requirement.
- 5.20.040 Insurance
- 5.20.050 License fee.
- 5.20.060 Schedule of fares.
- 5.20.070 Business license transfer.
- 5.20.080 Vehicle inspection.
- 5.20.090 Unlawful practices.
- 5.20.091 Auto transportation service driver's license.
- 5.20.092 Driver's application and qualifications.
- 5.20.093 Approval of auto transportation service driver's license.
- 5.20.094 Denial of auto transportation service driver's license.
- 5.20.095 Duties of an auto transportation driver.
- 5.20.096 License limitation or restrictions.
- 5.20.100 Revocation and suspension.
- 5.20.101 Emergency suspension.
- 5.20.110 Penalty.

5.20.010 Purpose. It is the intent of this chapter to provide for the orderly regulation of persons and vehicles engaged in providing auto transportation service, part of which service involves picking up or delivering passengers anywhere within the city limits. (Ord. 456 §1, 1982)

5.20.020 Definitions. For the purposes of this chapter, the following terms, phrases, words, and derivations shall have the meanings given in this section but not inconsistent with the context. Words used in the present tense include the future, words used in the plural include the singular, and words used in the singular number include the plural number. The word “shall” is always mandatory and not merely directory.

“Applicant” means any person making application for a business license or the renewal thereof, permitting such person to operate and maintain an auto transportation service within the city and any person making application for an auto transportation service driver’s license or the renewal thereof, permitting such person to operate an auto transportation service vehicle.

“Auto transportation service” means the operation by any person of one or more vehicles regularly engaged in the business of transporting passengers for hire along or upon surface roads wherein one or more of such passengers is either picked up from or delivered to a point located within the city. Such definition shall not include hotel/motel and car rental agency shuttle services, except where such services are not owned and operated by the hotel/motel or car rental agency and are contracted out as an auto transportation service, nor shall it include those common carriers which are regulated by the U.S. Department of Transportation, Federal Highway Administration, pursuant to Federal Motor Carrier Safety Regulations Part 391, et seq., and whose vehicles are equipped with airbrakes and whose drivers are required to obtain a passenger endorsement on their Commercial Drivers License (CDL).

“Licensee” means any person having a city auto transportation service business license for the operation and maintenance of an auto transportation service, or, where applicable, an auto transportation service driver’s license for the operation of any auto transportation service vehicle, which is in current full force and effect issued under this chapter.

“Person” means any person, firm, partnership, association, corporation, company or organization of any kind. (Ord. 945 §1, 2006; Ord. 770 §1, 2001; Ord. 757 §1, 2000; Ord 456 §2, 1982)

5.20.030 Business license requirement. A. It is unlawful for any person to conduct, operate or maintain, or permit to be conducted, operated or maintained, or to participate in the conduct, operation or maintenance of any auto transportation service, as the same is defined in Section 5.20.020 of this chapter, within the city, unless a valid business license therefore has been issued by the city council as provided in this chapter and said license is in current full force and effect.

B. Application for such business license shall be made to the city clerk on a form containing such information as the city council may require, which information shall include without limitation:

1. The name and address of the applicant; and if a partnership, the names and addresses of each partner, and if a corporation or association, the names and addresses of the principal stockholders; the name of the operating manager; a statement of the number of vehicles to be operated; a listed telephone number;

5.20.030

2. Proof of insurance, as required by Section 5.20.040 of this chapter;
3. A proposed schedule of fares; and the original certificate or certificates of inspection, executed by the city chief of police, as required by Section 5.20.080 of this chapter.

C. In order to determine an applicant's suitability for an auto transportation service business license, an applicant who has not been licensed, pursuant to this chapter, within the previous twelve months shall be required to be fingerprinted by the Idaho Bureau of Criminal Identification. Upon receipt of a satisfactory record check on the state level, fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Pending the results of the fingerprint background check on the federal level and upon recommendation of the chief of police, and approval by the city council, a temporary auto transportation service business license may be issued to the driver by the city clerk. A permanent license shall be issued upon satisfaction and completion of the background check. The cost of taking and processing such fingerprints shall be borne by the applicant. Where an applicant presents proof of a current records check submission with another local agency, within the same year that the application is filed, such applicant shall be exempt from the fingerprint requirement upon approval by the chief of police and city council.

D. No person shall be issued a business license to engage in the business of operating and maintaining an auto transportation service when that person:

1. Is under the age of twenty-one years;
2. Is not the bona fide owner of such business;
3. Has been, within the three years prior to the date of making application for said license, convicted of, or received a withheld judgment, probation or forfeited a bond for failure to appear for any felony or misdemeanor charge in this or any other state of the United States involving:
 - a. The use of force against the person or property of another,
 - b. The threat of force against the person of another,
 - c. Theft or larceny,
 - d. The use, possession or sale of illicit drugs,
 - e. Possession of a concealed weapon,
 - f. Illicit sexual activity,
 - g. Driving a motor vehicle under the influence of alcohol or drugs, or,
 - h. Reckless driving;
4. Has, at the time of application, an outstanding warrant;
5. Has had a similar license revoked by this city or any other city of this state, or of the United States, within the past three years;
6. No auto transportation service business license shall be granted to any applicant where satisfactory proof is submitted that such applicant operates motor vehicles in an unskillful, dangerous or reckless manner, or habitually uses liquor or drugs, or who repeatedly violates the laws of the city or state relating to traffic or to this chapter;
7. The city council may, in its discretion, waive the disqualification provided in this subsection D upon a finding that by virtue of the nature of the crime committed by the applicant; the applicant's qualifications to engage in the business of operating an auto transportation service are not called into question.

E. The affirmative showing required with respect to the qualifications of an applicant shall also be required to be made with respect to each partner of a partnership application and to each officer, director or member of the governing board of an applicant corporation or association.

F. The business license of any auto transportation service not operating for thirty consecutive days shall be deemed abandoned, and such license shall revert to the city for reissue unless the owner or agent of such auto transportation service notifies the city clerk prior to the expiration of the thirty days that such auto transportation service is not-in-service due to major mechanical or structural damage requiring in excess of thirty days to repair. In the event that such notification is given, the licensee shall have a reasonable period of time to place said vehicle(s) back in service. In the event that said vehicle(s) is not placed back in service within a reasonable period of time, to be determined by the city council, such auto transportation service license shall be deemed abandoned and shall revert to the city for reissue. Those auto transportation service owners who are sole operators, employ no employees, and do not lease their vehicle, or who operate a temporary limousine service, may in writing request permission from the city council to exceed the thirty days not-in-service limit under special emergency circumstances.

G. The city clerk, with recommendation from the chief of police, and approval of the city council, shall issue an “auto transportation service” license to the applicant for such license as set forth in Sections 5.20.040 through 5.20.060 of this chapter.

H. Upon denial of any auto transportation business license application under this chapter, the applicant shall have the right to appeal said denial in writing, to the city council within fifteen days of receipt of denial. The council may, upon findings of fact, grant or refuse such license.

I. At the time the holder of an auto transportation business license issued under this chapter shall apply for any renewal of said license, he must possess all of the qualifications and none of the disqualifications provided in this chapter. (Ord. 757 §2, 2000; Ord 586 §1, 1991; Ord. 456 §3, 1982)

5.20.040 Insurance. A. The licensee shall, at his or her expense, procure and keep in force at all times during the term of any license issued under this chapter, insurance written by an insurer satisfactory to the city clerk, insuring the licensee against all costs, liability and expense on account of injury or death of a person or persons or damage to or destruction of property caused by or connected with the licensee’s operation of an auto transportation service in an amount of not less than:

1. Public liability insurance: three hundred thousand dollars per person, five hundred thousand dollars per accident;

2. Property damage insurance: three hundred thousand dollars per person.

B. The comprehensive general public liability and property damage insurance required under this chapter shall name the city, its agents and employees as parties insured and the city clerk shall be furnished with a certificate to the effect that such insurance shall not be changed or canceled without thirty days’ prior written notice to the city clerk of such pending cancellation. The certificate of such insurance shall be delivered to the city clerk prior to the effective date of any license issued hereunder. (Ord. 511 §1, 1986; Ord. 456, 1982)

5.20.050 License fee. The application for a business license to conduct the business of operating and maintaining an auto transportation service within the city shall be accompanied by a license fee of two hundred fifty dollars. If the application for a license is denied, one hundred fifty dollars of the license fee submitted with the application shall be refunded to the applicant. The license fee required in this section and the license itself shall expire December 31st of each year. A renewal of such license shall be issued by the city clerk each year upon payment of the license fee for that succeeding calendar year, proof that the licensee has complied with the safety inspection requirement contained in this chapter for each vehicle which he operates and certification by the applicant that he possesses all of the qualifications and none of the disqualifications applicable for the granting of any initial license. (Ord. 757 §3, 2000; Ord. 586 §2, 1991; Ord. 456 §5, 1982)

5.20.060 Schedule of fares. Every applicant applying for issuance of a business license or renewal of such license under this chapter who intends to charge fees for auto transportation services shall submit to the city clerk, prior to the granting of any license or renewal under this chapter, a complete schedule of fares designating the rates to be charged by such licensee, per passenger, for transportation from any designated stopping point to any other designated stopping point served by the licensee. The schedule of fares shall be approved by the city council prior to the granting of any license under this chapter and can thereafter be modified only with the prior approval of the city council. When approved, the schedule of fares shall be posted in a conspicuous place in each vehicle licensed for use under this chapter. Furthermore, a copy of such schedule shall be delivered to the airport manager of the Friedman Memorial Airport and an additional copy shall be posted in a conspicuous place designated by the airport manager in the terminal building of the Friedman Memorial Airport. (Ord. 757 §4, 2000; Ord. 586 §3, 1991; Ord. 456 §6, 1982)

5.20.070 Business license transfer. No business license issued for the operation of an auto transportation service within the city may be transferred, leased or assigned without the express written approval and consent of the city council; provided however, that licenses for individual vehicles may be transferred to a new or different vehicle upon application thereof to the city clerk. Applications for the transfer of business licenses shall be accompanied by a fee of fifty dollars for each such transfer requested. (Ord. 757 §5, 2000; Ord. 456 §7, 1982)

5.20.080 Vehicle inspection. It is unlawful for any person to operate and use, or permit, or allow the operation and use of, any vehicle or vehicles for purposes of conducting an auto transportation service within the city unless said vehicle or vehicles have been inspected and approved for safety by an automobile mechanic approved by the city chief of police. Said inspection shall include, without limitation, brakes, lights, turn signals, steering, sound devices, exhaust systems, windshield wipers, tires, and such other items of equipment as may be appropriate. Proof of such inspection shall be presented to the chief of police which shall be attached to the application required by Section 5.20.030

of this chapter. Each vehicle owned and operated by a licensee as part of an auto transportation service shall be inspected annually prior to the issuance of any business license renewal required in this chapter. (Ord. 757 §6, 2000; Ord. 586 §4, 1991)

5.20.090 Unlawful practices. It is unlawful for any person driving or having charge of an automobile being operated as part of an auto transportation service or for any person owning, conducting or operating an auto transportation service to permit any driver or person having charge of a vehicle so operated to:

A. Pick up or deliver passengers within the city without having a license or renewed license in current full force and effect for the operation of an auto transportation service;

B. Charge any passenger a fare for transportation from one destination point to another which fare is greater than that specified in the schedule of fares approved by the city council under the terms of this chapter;

C. Directly, by word of mouth or gesture, solicit passengers for the auto transportation service except by lawful advertisement carried in any media used for advertisement purposes or by sign or poster lawfully posted at any destination or pickup point regularly served by such auto transportation service;

D. To loiter upon or about any premises within the city, including any terminal, lot or building located at the Friedman Memorial Airport, for the purpose of seeking or soliciting prospective passengers who have not engaged the auto transport service by previous appointment. This limitation shall not apply to occupying those parking spaces designated by the airport manager;

E. To occupy any parking space at the Friedman Memorial Airport other than those provided or designated by the airport manager for vehicles employed in the operation of an auto transport service;

F. Violate any rule or regulation promulgated by the Blaine County airport commission and approved by the city council regulating the stopping, standing, parking or operation on or about airport premises of vehicles being operated as part of an auto transport service regulating the conduct of persons operating or having charge of such vehicles on or about the airport premises;

G. It shall be unlawful for any person to drive, operate or have charge of an auto transportation service vehicle unless a valid state of Idaho driver's license is held by the operator and a valid city auto transportation service driver's license card has been issued as provided in Sections 5.20.091 through 5.20.093 of this chapter, both of which are in full force and effect. (Ord. 757 §7, 2000; Ord. 456 §9, 1982)

5.20.091 Auto transportation service driver's license. A. Every person desiring to drive, operate, or have charge of an auto transportation service vehicle within the city limits shall make application to the city clerk for a license to do so. Such application shall be made upon forms furnished by the city clerk and shall be filled out and signed by the applicant.

B. The city shall require a background investigation of each driver applying for an auto transportation service driver's license, by means of fingerprint checks by the Idaho Bureau of Criminal Identification and the Federal Bureau of Investigation.

C. Issuance of an auto transportation service driver's license shall be in addition to the business license requirement for operating and maintaining an auto transportation service set forth in Section 5.20.030 of this chapter.

D. It shall be unlawful for any person to drive, operate or have charge of an auto transportation service vehicle within the city limits unless a valid auto transportation service vehicle driver's license has been issued in accordance with this chapter. (Ord. 757 §8, 2000)

5.20.092 Driver's application and qualifications. A. Application for an auto transportation service driver's license shall be made to the city clerk in such form and manner as may be prescribed; application shall include, but not be limited to; the name and current physical address of the driver, the length of time of residence in the city, the current employer and last place of employment with the name and address of the employer, whether the driver has previously been licensed as an auto transportation service driver in this or any other city, and other such information as may be required.

B. In order to determine the driver's suitability for an auto transportation service driver's license, the applicant shall be required to be fingerprinted by Idaho Bureau of Criminal Identification. Cost of taking and processing such fingerprints shall be borne by the applicant. Upon receipt of a satisfactory record check on the state level, fingerprints shall be forwarded to the Federal Bureau of Investigation for a national criminal history record check. Pending the results of the fingerprint background check on the federal level and upon recommendation of the chief of police, and approval by the city council, a temporary auto transportation service driver's license may be issued to the driver by the city clerk. A permanent license shall be issued upon satisfaction and completion of the background check.

C. Upon receipt of an application for an auto transportation service driver's license, the chief of police shall cause an investigation to be made to the extent necessary to determine whether the applicant is qualified to drive, operate or have charge of an auto transportation service vehicle.

D. Where a driver presents proof of a current records check submission with another local agency, within same year that the application is filed, such driver shall be exempt from the fingerprint requirement upon approval by the chief of police or city council.

E. No person shall be issued a license to drive, operate or have charge of an auto transportation service vehicle when that person is:

1. Under the age of twenty-one years;
2. Has been, within the three years prior to the date of making application for said license, convicted of, or received a withheld judgment, probation or forfeited a bond for failure to appear for any felony or misdemeanor charge in this or any other state of the United States, involving:
 - a. The use of force against the person or property of another,
 - b. The threat of force against the person of another,
 - c. Theft or larceny,
 - d. The use, possession or sale of illicit drugs,
 - e. Possession of a concealed weapon,
 - f. Illicit sexual activity,

- g. Driving a motor vehicle under the influence of alcohol or drugs or,
- h. Reckless driving;
- 3. Has, at the time of application, an outstanding warrant;
- 4. Has had a similar license revoked by this city or any other city of this state, or of the United States, within the past three years;
- 5. The city council may, in its discretion, waive the disqualification provided in this subsection E upon a finding that by virtue of the nature of the crime committed by the applicant; the applicant's qualifications to engage in the business of operating an auto transportation service are not called into question.

F. No auto transportation service driver's license shall be granted to any applicant where satisfactory proof is submitted that such applicant operates motor vehicles in an unskillful, dangerous or reckless manner, or habitually uses liquor or drugs, or who repeatedly violates the laws of the city or state relating to traffic or to this chapter. (Ord. 757 §9, 2000)

5.20.093 Approval of auto transportation service driver's license. A. Upon recommendation by the chief of police, and approval by the city council, an auto transportation service driver's license card shall be issued by the city clerk to the driver for an auto transportation service license. Such license, whether standard or temporary, shall contain the applicant's full name, physical description, and shall also contain a photograph of the driver, which is a reasonable likeness. Whenever the driver is driving, operating or in charge of any vehicle under this chapter, such license card must be so affixed to the vehicle so as to be in full and clear view of any passenger in the rear seat of the vehicle.

B. An auto transportation service driver's license issued hereunder shall expire on December 31 of the year in which it was issued. An auto transportation service driver's license issued between October 1 and December 31 of a calendar year shall be good until December 31 of the following calendar year.

C. At the time the holder of an auto transportation service driver's license shall apply for renewal of such license he must possess all of the qualifications and none of the disqualifications provided in this chapter. A provisional license may be issued pending completion of the required investigation.

D. If a license has been expired longer than one year, or the driver is terminated or resigns from his current employer, of which employer is noted on the auto transportation service driver's license application, the applicant shall be treated as a new licensee and shall comply with the requirements pertaining to new driver applicants as outlined in this chapter.

E. An auto transportation service driver's license issued under this chapter is nontransferable. (Ord. 802 §1, 2001; Ord. 757 §10, 2000)

5.20.094 Denial of auto transportation service driver's license. Upon denial of an auto transportation service driver's license application under this chapter, the applicant shall have the right to appeal such denial to the city council in writing within fifteen days of receipt of denial. The city council, upon findings of fact, grant or refuse such license. (Ord. 757 §11, 2000)

5.20.095 Duties of an auto transportation driver. It shall be unlawful for an auto transportation driver to fail or neglect to have his license card posted as required by this chapter at all times while driving, operating or having charge of a vehicle under this chapter, or to permit the use or possession of the auto transportation driver's license by another, or to fail or refuse upon demand of any city officer, police officer, peace officer, sheriff, deputy sheriff or passenger to exhibit the auto transportation service driver's license card for inspection. (Ord. 757 §12, 2000)

5.20.096 License limitation or restrictions. The city clerk, upon the direction of the chief of police and the city council, shall have the power to issue a license approved by this chapter with limitations or restrictions relative to the nature of the license issued. (Ord. 757 §13, 2000)

5.20.100 Revocation and suspension. A. The city council may revoke or suspend any license issued under this chapter for or upon violation of any of the provisions contained in this chapter and such revocation or suspension shall be effective immediately upon council action.

B. The following shall be grounds for revocation or suspension of any license issued under this chapter:

1. That the license granted is being or has been exercised contrary to the terms or conditions of such license or in violation of this chapter, a city ordinance, or state law, regulation, or statute;
2. Fraud, misrepresentation or false statement contained in the application for license;
3. That the activity, use, or privilege authorized under the license is being or has been exercised so as to be detrimental to the public health, safety, or welfare;
4. Failure to maintain, during the term of the license, all of the qualifications under which the license was issued;
5. Any licensed owner of an auto transportation service business license who permits the operation, or maintenance or participates in the conduct, operation or maintenance of an unlicensed or invalidly licensed vehicle or driver under this chapter.

C. Upon a showing of sufficient cause to believe that grounds exist for revocation or suspension of any license under this chapter the chief of police shall:

1. Notify the applicant by certified mail, personal service, or substituted service of the city's intent to revoke or suspend the license, the grounds for said revocation or suspension and of the applicant's opportunity to appear before the city council for a hearing. The notification shall be sent to the licensee's last known address of record and shall contain the scheduled hearing date;
2. Both the licensee and the chief of police shall present evidence at the scheduled hearing before the city council. Based upon the evidence presented, the city council shall make findings of fact and conclusions of law and shall determine whether to revoke or suspend a license issued under this chapter. The determination of whether to revoke or suspend a license, and the duration of such revocation or suspension, shall be within the sole discretion of the city council based upon the evidence presented and as necessitated for protection of the public welfare. (Ord. 757 §14, 2000; Ord. 456 §10, 1982)

5.20.101 Emergency suspension. The chief of police shall have the authority to temporarily suspend any license issued pursuant to this chapter where violation of this chapter poses an immediate threat to the public health, safety and welfare by:

A. Notifying the applicant by certified mail, personal service, or substituted service of the ground for said suspension and of the applicant's opportunity to appeal said denial to the city council. The notification shall be sent to the licensee's last known address of record;

B. The suspension notice should include explicit ground for the suspension and any documents used to support and justify the suspension. The notice should also include a statement that informs the licensee of his right to a hearing before the city council to appeal the suspension;

C. The applicant, upon receiving notice of the suspension, may appeal said suspension by making application to the city clerk for a hearing before the city council within fifteen working days of receipt of above notice;

D. Failure of a person to actually receive a notice sent or served shall not invalidate the suspension. In such a case the licensee shall have fifteen days from the date the notice was mailed to file an appeal with the clerk's office;

E. The hearing if requested by the licensee shall follow the procedures as outlined in Section 5.20.100 of this chapter. If the city council determines that suspension was proper, the effective date of suspension shall be the date that the licensee received notice from the city;

F. Following a temporary suspension as set forth herein, the city council may also revoke or suspend a license as outlined in Section 5.20.100 of this chapter. (Ord. 757 §15, 2000)

5.20.110 Penalty. Violation of any of the provisions of this chapter or the failure or omission to perform any duty imposed by the provisions of this chapter is declared unlawful and punishable as a misdemeanor. (Ord. 456 §11, 1982)

Chapter 5.24FIREWORKSSections:

5.24.010	Title.
5.24.020	Authority.
5.24.030	Purpose.
5.24.040	Jurisdiction.
5.24.050	Definitions.
5.24.060	Permits.
5.24.070	Permit application–Procedures.
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5.24.010 Title. This chapter shall be known as the “fireworks ordinance” of the city. (Ord. 634 §2 (part), 1994)

5.24.020 Authority. This chapter is authorized under Idaho Code Title 39, Chapter 26, and Article 12, Section 2, of the Idaho Constitution, all as amended and modified. (Ord. 756 §1, 2000; Ord. 634 §2 (part), 1994)

5.24.030 Purpose. The purpose of this chapter is to protect the general health, safety and public welfare of the residents of the city by regulating the use and sale of fireworks. (Ord. 634 §2 (part), 1994)

5.24.040 Jurisdiction. This chapter shall apply to the storage, use, possession and sale of fireworks within any incorporated areas of the city. (Ord. 756 §2, 2000; Ord. 634 §2 (part), 1994)

5.24.050 Definitions. For purposes of this chapter the following words and phrases shall have the following meanings:

“Dangerous fireworks” includes any of the following:

1. Firecrackers, cannon crackers, giant crackers, salutes, silver tube salutes, cherry bombs, mines, ground bombardment, grasshoppers, ground-blooms and other explosive articles of similar nature;
2. Blank cartridges;
3. Skyrockets and rockets, including all similar devices employing any combustible or explosive material and which rise in the air during discharge;

4. Roman candles, including all devices which discharge a ball of fire into the air;
5. Chasers and whistles, including all devices which dart or travel about the surface of the ground during discharge;
6. Snakes and hats containing bichloride of mercury;
7. Sparkles more than ten inches in total length or one quarter inch in diameter;
8. All articles for pyrotechnic display such as aerial shells, salutes, flash shells, sky battles, parachute shells, mines, Dago Bombs and similar devices;
9. All torpedoes which explode by means of friction, or which contain arsenic, and all other similar fireworks devices including cracker balls;
10. Fire balloons or balloons of any type, which have burning material of any kind attached thereto.

“Dangerous fireworks” does not include:

1. Parachute shells including all ground to air projectiles that deploy a parachute and do not carry a flame, ember, spark, or any pyrotechnic discharge. Vertical movement of the projectile shall be restricted to twenty feet;
2. Ground spinners, chasers, including all devices which dart or travel about the surface of the ground during discharge and which do not exceed twelve inches of vertical movement at any time;
3. Model rocket motors, motor reloading kits, pyrotechnic modules, or components used in conformance with NFPA 1122, Code for Model Rocketry, or other propulsion devices as classified by the U.S. Department of Transportation as rocket motors (UNO186), or cartridges, power device (UNO275).

“Fire chief” means an individual appointed by the mayor to act in the official capacity of fire chief or his designated representatives.

“Fire department” means a fire department organized under Idaho statutes for the purpose of fighting structural and other hostile fires.

“Fireworks” means, as defined by Title 39, Chapter 26 of the Idaho Code, any combustible or explosive composition or any substance or combination of substances or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. Fireworks include items classified as common or special fireworks by the United States Bureau of Explosives or contained in the regulations of the United States Department of Transportation and designated as UN 03351.3G or UN 03361.4G. The term “fireworks” shall not include any automotive safety flares, toy guns, toy cannons, caps or other items designed for use with toy guns or toy cannons, party poppers, pop-its or other devices which contain twenty-five hundredths of a grain or less of explosive substance.

“Fireworks stand” means a structure either constructed on-site or moved onto a premises for purposes of temporary sale of safe and sane fireworks.

“Person” includes any individual, firm, partnership, joint adventure, association, concern, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.

“Safe and sane fireworks” means those products listed by the Hailey city fire department. Testing to determine those products shall be conducted using the following criteria:

- A. The item must not leave the ground or move laterally beyond a ten-foot radius.
- B. The pyrotechnic discharge from the item shall not extend beyond a twenty-foot radius both vertically and laterally.
- C. The combined movement and pyrotechnic discharge of any device shall not extend beyond a twenty-foot radius vertically or laterally. (Ord. 756 §3, 2000; Ord. 634 §2 (part), 1994)

5.24.060 Permits. A. Dangerous Fireworks Permit. It shall be unlawful for any person in the city to import, export, offer for sale, sell, possess, keep, use, or store or permit the keeping, storing, possession, or use of any dangerous fireworks for any use or purpose, except that a person holding a dangerous fireworks display permit issued pursuant to the terms and conditions of this chapter may use dangerous fireworks for a safely supervised and conducted public display of fireworks. Said fireworks may be stored for a period not exceeding ten days immediately preceding the date of said public display, provided the fireworks are to be used exclusively for public display and are stored in accordance with Uniform Building Code requirements.

B. Safe and Sane Fireworks Sales Permit. It shall be unlawful for any person to import, export, possess for the purpose of sale, offer for sale, or sell safe and sane fireworks for any use or purpose, unless that person has obtained a valid safe and sane fireworks permit. (Ord. 756 §4, 2000; Ord 634 §2 (part), 1994)

5.24.070 Permit application–Procedures. A. Dangerous Fireworks Display Permit. Any person over twenty-one years of age, in reasonable pursuit or furtherance of any legitimate personal, business, or charitable purpose desiring to make a public display of dangerous fireworks shall first make written application to the fire chief for a dangerous fireworks display permit. Each applicant for such permit shall pay to the city a permit fee of one hundred and twenty-five dollars and a per-site inspection fee of twenty-five dollars at the time he files his application. This fee is nonrefundable and is to defray the costs of processing and investigation required under this chapter.

B. Safe and Sane Fireworks Sale Permit. Any person over twenty-one years of age, in reasonable pursuit or furtherance of any legitimate personal, business or charitable purpose, desiring to engage in the sale of safe and sane fireworks within the city shall first make written application to the fire chief for a safe and sane fireworks sales permit. Each applicant shall pay to the fire chief a fee of twenty-five dollars and an inspection fee of twenty-five dollars at the time he files his application. This fee is nonrefundable and is to defray costs of the processing and investigation required under this chapter.

C. Form of Application. Each applicant for a safe and sane fireworks sale permit or a dangerous fireworks display permit shall file his application with the fire chief. Each application shall show the following:

1. Full name and residential address of applicant;
2. Whether or not the applicant is a private profit-making corporation, a private nonprofit corporation, a sole proprietorship, or a partnership;
3. The names, and addresses of the officers, trustees, and/or directors, if any, of the applicant;

4. The location where the applicant requests permission to sell safe and sane fireworks, or display dangerous fireworks, together with a legal description of the property and proof of ownership or right of use;

5. Date of incorporation or date partnership was established, or the applicant's age, if a sole proprietorship;

6. The location of the applicant's principal and permanent meeting place or places, or principal place or places of business;

7. The applicant's state sales tax permit number;

8. If the applicant is an entity other than a sole proprietorship, the name and general description of the business activities of each parent or subsidiary company, business or entity, and a general description of the ownership organization of each parent or subsidiary, if any;

9. A complete and accurate list of each type of fireworks that will be imported, exported, offered for sale, possessed, used, kept, or stored including a description of the particular characteristics of each firework. Should there be any fireworks identified on the list with characteristics unknown to the fire officials responsible for issuing the permit, four to six samples of each firework in question will be supplied, free of charge, to the fire officials not less than seven days prior to the issuance of the permit for testing purposes. The fire chief reserves the right to prohibit the sale of fireworks that do not meet established criteria;

10. Such other information as the fire chief may require on a standard form submitted by all applicants and which is reasonably necessary to protect the public health, safety, and welfare;

11. A certificate of insurance as called for in Section 5.24.090 shall be attached to the application;

12. A clean-up bond as called for in Section 5.24.080 shall accompany the application.

D. Preinstallation Investigation. The fire chief, upon receipt of an application for either a safe and sane fireworks permit or a dangerous fireworks display permit, shall assign an application permit number. The fire chief, or his designated representative, shall arrange a mutually convenient time to review the application and the proposed location. If the application is for a safe and sane fireworks sales permit, the fire chief shall ascertain that the proposed location is in an area zoned business. The fire chief will prepare a recommendation for approval, approval with conditions or disapproval of the application. Factors to be considered in the report include compatibility with the Uniform Building Code and/or Uniform Fire Code, compatibility with the requirements and standards of this chapter, and the character or repute of the applicant. This report shall be forwarded to the city council for their approval, conditional approval or denial of the application.

E. Installation Inspection. Safe and sane fireworks sales permits shall not be valid unless and until the fire chief, or his designated representative, have approved such permit after visiting the site and verifying that the installation meets the requirements of this chapter and the permit. This site visit must take place after the temporary fireworks stand is in place, but before sales commence. It shall be the responsibility of the applicant to arrange for a mutually acceptable time for this inspection.

F. Terms of Permit. A safe and sane fireworks sales permit or dangerous fireworks display permit, issued pursuant to this chapter shall be valid, if the application is complete and in compliance with applicable law, for twelve months from the date of issuance.

G. Posting of a Permit. A permit shall be valid only for the specific premises or location designated in the permit and must be posted on the temporary fireworks stand in a conspicuous place.

H. Number of Permits. Subject to reasonable conditions necessary for protection of public health, safety and welfare, an applicant may be granted permits for more than one premises or location within the city.

I. Permit Nontransferable. No permit shall be transferable or assignable.

J. Time of Filing Application. Each application for a safe and sane fireworks sales permit and dangerous fireworks display permit will be filed with the fire chief on or before June 1st for the first sales period, and December 1st for the second sales period, of the calendar year for which the permit is sought.

K. Time of Sale. No safe and sane fireworks shall be sold at retail, offered for sale, or used before midnight June 23, nor after midnight July 5th of the calendar year for the first sales period; nor before midnight December 26th nor after midnight January 1st of the calendar year for the second sales period. No temporary fireworks stands will be erected before June 15th, nor remain after July 10th of the calendar year for the first sales period; nor be erected before December 7th; nor remain after January 8th of the calendar year for the second sales period.

L. The fire chief, in cooperation with the building department, shall cause an investigation to be made of each application and applicant.

M. The city council, upon recommendations of the fire chief, shall have the power in his or her discretion to grant or deny any application, subject to such reasonable conditions, if any, as it shall prescribe, so long as the denial of the application or any conditions imposed on the granting of the application are reasonably necessary for protection of the public health, safety and welfare.

N. Moratorium on Issuance of Permits. During any year in which the city council determines dangerous conditions exist which may significantly increase the hazard and menace of fire resulting from the sale, use, and/or display of fireworks, the city council may declare a moratorium upon issuance of dangerous fireworks permits and/or safe and sane fireworks sales permits. Upon declaration of such a moratorium, no applications for such permits will be accepted, and no permits shall be issued, during the calendar year in which the moratorium is declared. Where permits have already been issued, and the city council determines that dangerous conditions exist as set forth herein, the city may temporarily suspend such permits due to an imminent peril to the public due to a menace of fire, until such time that the council determines that such notice of fire no longer exists. Where permits have been issued, and then temporarily suspended as set forth herein, upon declaration of the city council, the applicant shall receive a refund of permit fees until such time as the temporary suspension has been lifted. (Ord. 756 §5, 2000; Ord. 634 §2 (part), 1994)

5.24.080 Requirements—Safe and sane fireworks sale. A. Safe and Sane Fireworks Sales. Safe and sane fireworks sales are subject to the following requirements and/or standards:

1. All retail sales of safe and sane fireworks shall be permitted only from within a temporary fireworks stand, and the sale from any other building, structure or building is hereby prohibited.
2. The stand in which the fireworks will be stored or sold shall not be located within twenty-five feet of any other building nor within one hundred feet of any flammable liquid dispensing device or installation.
3. All fireworks stands must meet the structural stability requirements of the Uniform Building Code, but using only a twenty p.s.f. roof loading and fifteen p.s.f. windloading. The structure need not be mounted on a permanent foundation, but must be securely anchored to prevent horizontal movement and/or vertical uplift.

All lighting circuits and other electrical equipment shall be approved by the state of Idaho Electrical Inspector.

4. The stand shall have two exit doors each a minimum of thirty inches wide, one at each end of the stand or as near the ends as is practical. One additional door is required for each thirty-two feet of rear wall in excess of thirty-two feet. All doors shall open outward from the stand and all doorways shall be kept unlocked and unlatched during the hours of operation and free and clear of all supplies and materials at all times.

5. A stand shall have at least two approved two and one-half gallon water-type fire extinguishers, or two dry chemical-type fire extinguishers having a 2A minimum rating, or a combination of both, in good working order, with a current inspection tag in place, placed near the exits in a visible and readily accessible manner. Extinguishers shall be placed apart near the exits no more than twenty lineal feet apart. If the distance exceeds twenty lineal feet, more extinguishers shall be required.

6. A stand shall meet the minimum requirements for temporary buildings for all lighting circuits or other electrical equipment used in conjunction with the operation of the stand as required by applicable local building codes or, if no local building codes have been adopted, then by applicable state codes.

7. There shall be at least one supervisor, nineteen years of age or older, on duty at all times. All fireworks shall be effectively kept away from any kind of self-service by the public, and shall be placed in a location, which is unavailable and inaccessible to members of the public in capacities other than as legal customers. No person under fifteen years of age shall work at or about any stand where safe and sane fireworks are sold or offered for sale.

8. No person employed or functioning as a watchman shall be permitted to remain inside of any stand when it is not open for business.

9. No smoking signs with minimum lettering size not less than one and one-half inches high and one-fourth inch stroke width or approved international symbol signage shall be prominently displayed both inside and outside the stand. Smoking shall not be permitted within the stand or within twenty-five feet of the stand.

10. No fireworks shall be discharged in or within fifty feet of any fireworks stand.

11. No person shall allow any rubbish or weeds to accumulate in or around any fireworks stand or permit a fire nuisance to exist. At least one twenty-gallon non-combustible metal garbage can with lids must be provided on the premises. This can must be emptied at least once daily.

12. Fireworks for sale or in storage shall not be left unattended at any time. Fireworks shall be stored in areas approved by the fire chief or his designated representative.

13. Fireworks shall not be left in the stand when it is not open for business unless the stand is locked or secured. If fireworks are not stored in the stand they shall be stored in compliance with Idaho Code Section 39-2608.

14. No stand shall have a floor area in excess of four hundred square feet.

15. Stands shall be erected only in locations where zoning, under the zoning ordinance of the city, is business.

16. Fireworks shall not be sold to minors under fifteen years of age. "No Sales to Minors Under Fifteen Years of Age" signs with minimum lettering size not less than one and one-half inches high and one-fourth inch stroke width or approved international symbol signage shall be prominently displayed both inside and outside the stand.

17. Each permittee shall be required to retain at the licensed premises, while said premises are open, and at his principal place of business for a year thereafter, copies of all invoices, receipts, and orders evidencing the source from which he acquired the fireworks which he handled.

B. Dangerous Fireworks Display. Dangerous fireworks displays shall conform to all of the requirements set forth in Chapter 78 of the most recent edition of the Uniform Fire Code. (Ord. 756 §6, 2000; Ord. 634 §2 (part), 1994)

5.24.090 Insurance. Each applicant for a safe and sane fireworks permit or for a dangerous fireworks permit, under the provisions of Section 39-2601 et seq., Idaho Code, must file with the fire chief prior to the issuance and validity of any permit, a policy or a certified true copy thereof, of public liability and products liability insurance on an occurrence basis coverage. The applicant for a safe and sane fireworks permit shall carry public liability insurance with a combined bodily injury and property damage of one hundred thousand dollars per occurrence. An applicant for a dangerous fireworks permit shall carry public liability insurance with a combined bodily injury and property damage of one million dollars per occurrence. Each policy of insurance shall be in a form and substance acceptable to the city, and shall name as insured parties under the terms of the policy the city, all officials of the city in performance of official functions regarding all operations under or pertaining to said permit, any licenses or licensor of the applicant, and all vendors of the fireworks covered by the permit to be issued to the applicant. The policy of insurance shall be underwritten through or by a qualified and duly licensed insurance company or licensor of the applicant, and all vendors of the fireworks covered by the permit to be issued to the applicant. The policy of insurance shall be underwritten through or by a qualified and duly licensed insurance company or companies doing or authorized to do insurance business in Idaho. Said policy of insurance shall be so written that it cannot be cancelled without at least ten days prior written notice to the city from the underwriting insurance company. (Ord. 756 §7, 2000; Ord. 634 §2 (part), 1994)

5.24.095 General prohibitions. It shall be unlawful for any person, except in compliance with this chapter to:

- A. Alter any fireworks;
- B. Throw any fireworks from, into, or at a moving vehicle or at any person;
- C. Sell or use any fireworks any time not permitted under this chapter;
- D. Use fireworks in any area that constitutes a severe fire threat based on the vegetative conditions during the current fire season as determined by the fire chief. (Ord. 756 §8, 2000)

5.24.096 Liability of parents or guardians. The parents, guardians or other persons having custody or control of a minor shall be liable for damage caused by the use of fireworks by the minor. (Ord. 756 §9, 2000)

5.24.097 Suspension and revocation of permit. A. Upon a showing of sufficient cause to believe that the holder of a safe and sane fireworks permit or a dangerous fireworks permit has in any way violated this chapter, the city may suspend said permit by:

1. Notifying the permittee by certified mail, personal service, or substitute service of the grounds for such suspension and of the permittee's opportunity to appeal such denial to the city council. The notification shall be sent to the permittee's last known address of record;

2. The suspension notice should include explicit grounds for the suspension and any documents used to support and justify the suspension. The notice should also include a statement that informs the permittee of his or her rights to a hearing before the city council to appeal the suspension;

3. The permittee, upon receiving notice of the suspension, may appeal said suspension by making application to the fire chief for a hearing before the city council within ten working days of receipt of the above stated notice.

B. Failure of a person to actually receive a notice sent or served shall not invalidate said suspension. In such a case, the permittee shall have fifteen days from the date the notice was mailed to file an appeal with the fire chief.

C. Where there exists a clear endangerment to the health, safety and welfare of the public resulting from the use of the permit, in addition to the applicant's or his/her agent's failure to perform in conformance with the conditions and terms set forth on the permit and pursuant to this chapter, the city council or the fire chief, or his or her designated representative, may revoke the fireworks permit issued under the provisions of this section by immediately demanding and seizing the permit from the applicant or the applicant's designee. (Ord 756 §10, 2000)

5.24.100 Penalties. A. It shall be the duty of every person issued a fireworks sales permit to comply with all the provisions of the Idaho State Fireworks Act as set forth in Idaho Code Section 39-2601, et seq. and this chapter. Violations of the act or any of the provisions of this chapter by the permittee, or by any of its agents, employees, or officers shall constitute a cause, in and of itself, to deny any subsequent application for a permit.

B. Any dangerous fireworks being stored or sold in a safe and sane fireworks stand shall be immediately confiscated by the fire chief and the permit to operate the stand shall be immediately revoked.

C. Any person, firm, association, corporation, or other entity which fails to comply with or violates any of the regulations hereof shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than three hundred dollars, or imprisonment for a period not to exceed six months, or both such fine and imprisonment, including any necessary restitution. Each day that such violation continues shall be considered a separate offense.

D. Notwithstanding the existence or use of any other penalty or remedy any person who violates the provisions of this chapter or any of the rules promulgated pursuant to this chapter may, upon application to or with written consent of the city, be enjoined in the manner provided by law for continuing the violation. Fireworks being used in violation of this chapter may be confiscated by the city. (Ord. 756 §11, 2000; Ord. 634 §2 (part), 1994)

Chapter 5.28

PAWNBROKERS

Sections:

5.28.010	Definitions.
5.28.020	License required.
5.28.030	Accurate records of all transactions required.
5.28.040	Retention of personal property for required time.
5.28.050	Employees.
5.28.060	Licensee responsible for acts of employees.
5.28.070	Violation--Penalty.

5.28.010 Definitions. In construing the provisions of this chapter, the following definitions shall apply:

“City” means the city of Hailey, Idaho.

“Pawnbroker” means any person conducting a business which involves or includes loaning or advancing money upon the deposit, pledge, or bailment of personal property of any kind as security for such loan or advancement, or engaging in any transaction involving the sale and purchase of personal property wherein said personal property is, pursuant to agreement, to be repurchased by the vendor, pledgor, bailor, or depositor upon the payment of an agreed sum.

“Person” means any individual, firm, partnership, company, corporation, joint venture, association, or other business entity.

“Year” means the calendar year. (Ord. 596 §1, 1992)

5.28.010–5.28.030

5.28.020 License required. Each and every person engaged in business as a pawnbroker within the city limits of the city is required to obtain a license by completing a license application in the form required by the police department. Applications may be obtained from the city clerk. Applicants shall be required to pay a license fee in the sum of fifty dollars prior to issuance of the license required herein. Each license issued shall be valid for one year, and licenses must be renewed annually. All persons subject to the requirements of this chapter shall have until June 15, 1992, to obtain the required license. (Ord. 596 §2, 1992)

5.28.030 Accurate records of all transactions required. Every person subject to the provisions of this chapter is required to keep accurate, legible records of all transactions described in Section 5.28.010, which record shall include without limitation the date and time

personal property was taken into possession, whether as security for a loan or purchased or received for resale, an accurate description of the personal property, and the person from whom such property was received. All descriptions of said personal property shall include, whenever possible, the brand name, model, and serial number of the item or items received. The description of the person from whom such property is received shall include said individual's full name, date of birth, a physical description, the individual's social security number or driver's license number and the individual's physical (street) home address and mailing address. All such records shall be prepared in duplicate on forms approved by the chief of police and the duplicate copy shall be furnished to any police officer upon the official request of such officer. No such record shall be altered, erased, obliterated, or defaced. All personal property described in such record shall be open to the official inspection of any police officer during reasonable business hours. (Ord. 596 §3, 1992)

5.28.040 Retention of personal property for required time. No personal property acquired or purchased in a transaction described in Section 5.28.010 and subject to the requirements of Section 5.28.030 shall be sold or otherwise disposed of prior to expiration of ten working or business days (excluding Saturdays, Sundays, and holidays) following the day on which such personal property was acquired or purchased. (Ord. 596 §4, 1992)

5.28.050 Employees. No pawnbroker subject to this chapter shall employ any individual under the age of eighteen years to receive or purchase personal property or make or document loans secured by a pledge or bailment of such personal property. (Ord. 596 §5, 1992)

5.28.060 Licensee responsible for acts of employees. The holder of any pawnbroker's license required in this chapter shall be liable and responsible for any and all acts of his employees and agents and for any violation of the provisions of this chapter by said employees and agents. (Ord. 596 §6, 1992)

5.28.070 Violation--Penalty. Any person who violates the provisions of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed three hundred dollars, imprisonment in the county jail for a period not exceeding thirty days, or both such fine and imprisonment. (Ord. 596 §7, 1992)

Chapter 5.32

NON-PROPERTY TAXES

Sections:

5.32.010	Findings.
5.32.020	Definitions.
5.32.030	Imposition of certain non-property taxes.
5.32.040	Duration of taxes.
5.32.050	Purposes of taxes.
5.32.060	Creation of a property tax relief fund.
5.32.070	Authority of city clerk.
5.32.080	Permits; issuance.
5.32.090	Method for payment of taxes.
5.32.100	Audits; deficiency determinations.
5.32.110	Redetermination of deficiency.
5.32.120	Appeals, interest on deficiency.
5.32.130	Collections and enforcement.
5.32.140	Refunds, limitations and interest.
5.32.150	Responsibility for payment of taxes.
5.32.160	Period of limitation upon assessment and collection.
5.32.170	Successors' liability.
5.32.180	General administration by city clerk.
5.32.190	Penalties.
5.32.200	Penalty charge.
5.32.210	Exemptions.

5.32.010 Findings. The city council of the city of Hailey hereby finds that a) the city of Hailey is a municipal corporation and a political subdivision of the State of Idaho, organized under the general laws of the State of Idaho, b) the population of the city of Hailey is less than 10,000 according to the most recent census, c) the city of Hailey has a significant economic dependence upon visitors and travelers passing through or staying in the city of Hailey, and d) the city of Hailey derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to the city of Hailey for an extended period of time. Based on these findings, the Hailey city council finds that the city of Hailey is a resort city as defined by Idaho Code §50-1044. (Ord. 950 §1, 2006)

5.32.020 Definitions. For the purposes of this ordinance, the following terms, phrases, words and derivations shall have the meaning given herein:

“City” shall mean either the municipal corporation of the city of Hailey, Blaine County, Idaho.

“City Clerk” shall mean the duly appointed and acting city clerk for the city, and his/her duly authorized deputy.

“Hotel-Motel” shall mean any business including hotels, motels, condominiums, tourist homes, other sleeping accommodations and any other business which in the regular course of business rents or leases for occupancy temporary lodging to individuals, with or without meals, except where a residence is maintained continuously under terms of a lease or similar agreement for a period in excess of thirty (30) days.

“Liquor By-The-Drink” shall mean and include all of the following:

(A) “Alcohol” means the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, or synthetic ethyl alcohol.

(B) “Spirits” means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, whiskey, and gin.

(C) “Wine” means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.).

(D) “Beer” means any alcoholic beverage obtained from the fermentation of sugar, barley, hops, malt, yeast and similar ingredients.

(E) Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible to being consumed by a human being, for beverage purposes.

“Person” or “person” shall mean any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit.

“Rental Vehicle” shall mean a passenger motor vehicle, rented or leased for temporary use or occupancy, except where a vehicle is leased or occupied under the terms of a lease or similar agreement for a period in excess of thirty (30) days. For the purpose of this ordinance, Rental Vehicle shall not include operated vehicle rentals.

“Rental Vehicle Charge” shall mean the total amount charged for rental use of a Rental Vehicle, valued in money, whether paid in money or otherwise, without any deduction.

“Restaurant Food” shall mean all food, meals or drinks, and nondepreciable goods and services directly consumed by customers included in the charged thereof, which are furnished, prepared and sold on the premises and which are customarily furnished, prepared and sold as the primary use of the premises.

“Room Occupancy Charge” shall mean the total amount charged for rental use or temporary occupancy of a room or living unit in a Hotel-Motel, valued in money, whether paid in money or otherwise, without any deduction.

“Retail Sale” shall mean the sale of Liquor By-The-Drink for consumption on the premises and/or sale of Restaurant Food on the premises, other than resale in the regular course of business, and shall include any transfer of money, title, exchange, barter or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

“Sale” or “sale” shall mean any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter. For the purpose of this definition, sale shall include the lease or rental of tangible personal property.

“Sales Price” shall mean the total amount for which Liquor By-The-Drink or Restaurant Food is sold, and the total amount of the Rental Vehicle Charge or Room Occupancy Charge, including services agreed to be rendered as a part of the sale, rental or lease, valued in money, whether paid in money or otherwise, without any deduction.

“Taxpayer” shall mean any person subject to or liable for any tax or payment of any tax imposed under this ordinance. (Ord. 950 §1, 2006)

5.32.030 Imposition of Certain Non-Property Taxes. The city hereby imposes and shall collect certain non-property taxes as follows:

(A) Rental Vehicle Tax: A tax is hereby imposed at the rate of three percent (3%) on the Rental Vehicle Charge for each Rental Vehicle rented or leased within the city. The Rental Vehicle tax shall apply to and be computed on the rental of all Rental Vehicles including all credit, installment, conditional or similar rental or lease fees at the time the Rental Vehicle Charge is charged. The Rental Vehicle tax shall be collected by the owner or his authorized agent from the renter or lessee.

(B) Hotel-Motel Occupancy Tax: A tax is hereby imposed at the rate of three percent (3%) on the Room Occupancy Charge for each Hotel-Motel room or living unit rented or leased within the city. The Hotel-Motel occupancy tax shall apply to and be computed on the rental of all Hotel-Motel rooms including all credit, installment, conditional or similar rental or lease fees at the time the Room Occupancy Charge is charged. The Hotel-Motel occupancy tax shall be collected by the owner of the Hotel-Motel or his authorized agent from the renter or lessee.

(C) Liquor By-The-Drink Tax: A tax is hereby imposed at rate of two percent (2%) of the Sales Price upon each Retail Sale of Liquor By-The-Drink within the city. The tax shall apply to and be computed on all Retail Sales of Liquor By-The-Drink including credit, or similar sales at the time of the sale. The Liquor By-The-Drink tax shall be collected by the retailer from the consumer.

(D) Restaurant Food Tax: A tax is hereby imposed at rate of one percent (1%) of the Sales Price upon each Retail Sale of Restaurant Food within the city. The tax shall apply to and be computed on all Retail Sales of Restaurant Food including credit, or similar sales at the time of the sale. The Restaurant Food tax shall be collected by the retailer from the consumer.

(E) Fractional Portion: When the Sales Price involves a fraction of a dollar, the non-property tax shall be collected on that fractional portion of the price adding thereto the tax based upon the following bracket system:

Rental Vehicle and Hotel-Motel Occupancy Taxes (3%)

\$0.01	to	\$0.24	\$0.00
.25	to	.49	0.01
.50	to	.74	0.02
.75	to	.99	0.03

(Each whole dollar \$0.03)

Liquor By-The-Drink Tax (2%)

\$0.01	to	\$0.33	\$0.00
.34	to	.66	0.01
.67	to	.99	0.02

(Each whole dollar \$0.02)

Restaurant Food Tax (1%)

\$0.01	to	\$0.49	\$0.00
.50	to	.99	0.01

(Each whole dollar \$0.01)

The retailer shall calculate the tax upon the entire amount of purchases of the consumer made at a particular time subject to this ordinance, and not separately upon each item purchased.

(F) Monies Collected Held in Trust: All monies collected and/or retained under the provisions of this ordinance shall be held in trust for the city and for payment thereof to the city clerk in the manner and at the times in this ordinance provided. (Ord. 1035 §1, 2009; Ord. 950 §1, 2006)

5.32.040 Duration of taxes. The non-property taxes authorized and collected under this ordinance are hereby imposed for a duration of twenty (20) years from the effective date of this ordinance. (Ord. 1035 §2, 2009; Ord. 950 §1, 2006)

5.32.050 Purposes of taxes. The non-property tax revenue derived from and collected under this ordinance shall be used for the following purposes:

- (A) Emergency services (rapid response, life saving, traffic enforcement, training, staffing, equipment, vehicles, etc.).
 - (B) Maintenance, improvement and acquisition of parks.
 - (C) Road repair, transportation enhancements and snow removal.
 - (D) City promotion, visitor information, special events and economic development.
 - (E) Town improvements (library modernization, sidewalks, town square, etc.).
 - (F) Public transit and related improvements.
 - (G) Direct cost to administer and enforce this ordinance.
- (Ord. 950 §1, 2006)

5.32.060 Creation of a property tax relief fund. There is hereby created in the office of the city clerk a fund to be designated as the “Municipal Property Tax Relief Fund.” All monies collected under this ordinance, and not otherwise budgeted by the city council, shall be placed by the city clerk into the Municipal Property Tax Relief Fund. All monies collected and placed into the Municipal Property Tax Relief Fund shall be used to replace city property taxes in the ensuing fiscal year. (Ord. 950 §1, 2006)

5.32.070 Authority of city clerk. The city clerk is hereby authorized and empowered to administer, regulate and collect payment of all non-property taxes adopted and imposed by this ordinance. The city clerk shall have all of the powers set forth in this ordinance together with those additional powers necessary and proper to carry out the provisions of this ordinance. (Ord. 950 §1, 2006)

5.32.080 Permits; issuance. (A) Every person desiring to engage in or conduct business of renting Rental Vehicles and Hotel-Motel rooms and selling Liquor By-The-Drink and/or Restaurant Food within the city shall file with the city clerk an application for a municipal non-property tax permit for each place of business. A separate permit is required for each place of business within the city. Every application for such a permit shall be made upon a form prescribed by the city clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of business, and such other information as the city clerk may require. The application shall be signed by the owner, if he is a natural person; or in the case of an association or limited liability company, by member or partner; or in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application; or in the case of a partnership, by a partner; or in the case of any other legal entity, by an authorized person. Initial permits shall be issued upon completion of the application for each permit sought.

(B) Upon filing an application meeting the requirements set out above, the city clerk shall issue to each applicant a permit for each place of business. A permit shall not be assignable, and shall be valid only for the person or entity in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of such permit may be subject to additional requirements as set forth in this ordinance.

(C) On the face of the permit shall be affixed a municipal non-property tax number which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the non-property tax imposed under this ordinance. (Ord. 950 §1, 2006)

5.32.090 Method of payment of taxes. (A) The taxes imposed by this ordinance shall be computed and paid for each calendar month. The taxes imposed by this ordinance are due and payable to the city clerk on or before the twenty-fifth day of the succeeding month. The amount of tax paid shall be computed on the total dollar value of the Rental Vehicle and Room Occupancy Charges, and of the Sale Price of the Retail Sale of Liquor By-The-Drink and/or Restaurant Food. Each person required to hold a municipal non-property tax permit and number shall file a municipal non-property tax return and a copy of their Idaho State Sales Tax Return for the month at the same time the taxes imposed by this ordinance are paid to the city clerk, unless the person has been permitted in writing by the Idaho State Tax Commission to file quarterly sales or use tax returns. Persons who have been permitted to file other than quarterly returns shall notify the city clerk in writing and the city clerk thereupon may require reporting of state tax returns over some other period.

(B) The first payment of taxes under this ordinance shall be due and payable together on August 25, 2006, for that period beginning July 1, 2006, and ending July 31, 2006. Thereafter all payments shall be made monthly.

(C) A municipal non-property tax return shall be filed each and every month by every person engaging in the rental or lease of Rental Vehicles and Hotel-Motel rooms and in the sale of Liquor By-The-Drink and/or sale of restaurant food, regardless of whether any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent. (Ord. 950 §1, 2006)

5.32.100 Audits; deficiency determinations. (A) The city clerk may order an audit of any taxpayer under this ordinance for the purpose of ascertaining the correctness or completeness of any return or payment.

(B) If any error or omission is discovered in such audits or in any other way, the city clerk may compute and determine the amount of tax due upon the basis of facts obtained from such information within the city clerk's possession and assert a deficiency. One or more deficiency determinations may be made for the amount due for one or for more than one period. In making such a determination, the city clerk may offset overpayments against amounts due. Further, such determinations shall be made for the period or periods in respect to which the person fails to make a return and shall be based upon any information which is in the city clerk's possession.

(C) The city clerk shall give written notice of his or her determination and the amount of the deficiency, including interest at a rate of interest per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal, from the date due, to the person from whom such deficiency amount is due. Such notice may be given personally or mailed to the person at the address furnished to the city clerk in the non-property tax permit application. (Ord. 950 §1, 2006)

5.32.110 Redetermination of deficiency. (A) Any person against whom a deficiency determination is made under this ordinance, or any person directly interested, may petition in writing for a redetermination within thirty (30) days after service upon the person of notice thereof. If the petition for redetermination is not filed within the thirty (30) day period, the determination becomes final at the expiration of the period.

(B) If a petition for redetermination is filed within the thirty (30) day period, the city clerk shall reconsider the determination and, if the person so requests in the petition, grant the person oral hearing and give said person ten (10) days' notice of the time and place of the hearing personally or by mail addressed to the person at the address furnished to the city clerk in the person's application for a non-property tax permit. (Ord. 950 §1, 2006)

5.32.120 Appeals, interest on deficiency. (A) When a redetermination is made, the city clerk shall give notice to the taxpayer against whom the redetermination is made. Within thirty (30) days of the date upon which such notice of redetermination is mailed or served, the taxpayer may file an appeal with the city council or may file a complaint with the district court for review of the city clerk's redetermination. There shall be no right of review to the city council nor to the district court on the determination of taxes due made by the city clerk unless a petition for redetermination has been timely filed. No assessment of a deficiency in respect to the tax imposed by this ordinance or proceeding to collect for its collection shall be made, begun or prosecuted until such notice has been mailed to the taxpayer and expiration of such thirty (30) day period after notice of redetermination, nor if a protest is filed until a decision on the protest becomes final. If the taxpayer does not protest to the city council or file an action in district court within the time prescribed in this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the city clerk.

(B) Interest upon any deficiency shall be assessed at the same time as the deficiency and shall become due and payable upon notice and demand from the city clerk and shall be collected as part of the tax at a rate per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal, from the date prescribed for payment of the tax. (Ord. 950 §1, 2006)

5.32.130 Collections and enforcement. As soon as practical after a monthly municipal non-property tax return and payment is filed, the city clerk shall examine the same, and determine the correct amount of the tax. For the purpose of ascertaining the correctness of any payment, determining the amount of tax due where none has been made, determining the liability of any person for any tax payable under this ordinance or the liability at law or in equity of any person in respect to any tax provided by this ordinance, or collecting any such liability, the city clerk is authorized:

(A) To examine the books, papers, records or other data which may be relevant or material to the inquiry;

(B) To summon the person liable for the tax or any officer, agent or employee of such person, or any person having possession, custody or care of books of accounting containing entries relating to the business of the person liable for the tax, to appear before the city clerk, at a time and place named in its summons to produce such books, papers, records or other data and/or give such testimony under oath as may be relevant or material to such inquiry. (Ord. 950 §1, 2006)

5.32.140 Refunds, limitations and interest. (A) If the city clerk determines that any amount due under this ordinance has been paid more than once or has been erroneously or illegally collected or computed, the city clerk shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount due or payable to the city clerk for non-property taxes from that person, and any balance refunded to the person by whom it was paid or to his successors, administrators or executors.

(B) No such credit or refund shall be allowed or made after one year from the time the payment was made unless before the expiration of such period a claim therefore is filed by the taxpayer.

(C) Interest shall be allowed on the amount of such credits or refunds at a rate of interest per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal from the date which such tax was paid.

(D) Appeal from the city clerk's decision denying in part or in whole a claim for refund shall be made in accordance with the laws of the State of Idaho with regard to claims against municipalities. (Ord. 950 §1, 2006)

5.32.150 Responsibility for payment of taxes. Every person with a duty to account for or pay over any tax imposed by this ordinance on behalf of a corporation, limited liability company, partnership or other legal entity, as an officer, employee or agent of the entity, shall be personally liable for payment of such tax, plus penalties and interest. (Ord. 950 §1, 2006)

5.32.160 Period of limitation upon assessment and collection. (A) The amount of taxes imposed under this ordinance shall be assessed within three (3) years of the time the return upon which the tax asserted to be due was or should have been filed, whichever is later; provided, however, if a deficiency determination or assessment has been made within the prescribed time, such tax may be collected within a period of six (6) years after assessment. The running of limitations provided by this section shall be suspended for the period during which the city clerk is prohibited from making the assessment or from collecting or proceeding in court due to a petition for redetermination or an appeal therefrom, and for thirty (30) days thereafter.

(B) In the cases of taxes due during the lifetime of a decedent, the tax shall be assessed and proceedings for collection begun with six (6) months after written request therefore (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent unless the assessment is stayed by a petition for redetermination or any appeal therefrom.

(C) In the case of a false or fraudulent return with intent to evade tax, or of a failure to file a return, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within three (3) years after the date of the discovery of the facts constituting the fraud, or discovery of the failure to file. (Ord. 950 §1, 2006)

5.32.170 Successors' liability. (A) If a vendor liable for any amount of tax due under this ordinance sells out his business or stocks and goods, the vendee shall make an inquiry to the City Clerk and withhold from the purchase price any amount of tax that may be due under this ordinance until such time as the vendor produces a receipt stating that no amount is due.

(B) If the purchaser of business or stock of goods fails to withhold from the purchase price, as above required, the purchaser or officer, employee or agent of the entity is personally liable for the payment of the amount required to withheld by him, which amount shall become immediately due and payable with interest as herein provided, and suit may be filed within the time limit set forth in subsection 5.32.160 (A) of this ordinance. (Ord. 950 §1, 2006)

5.32.180 General administration by city clerk. (A) The city clerk shall enforce the provisions of this ordinance and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The city clerk may employ qualified auditors for examination of taxpayer's books and records, and shall also employ such accountants, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this ordinance, and may delegate authority to his or her representatives to conduct hearings, or perform other duties imposed by this ordinance.

(B) Every Rental Vehicle business owner, Hotel-Motel owner, seller of Liquor By-The-Drink, and seller of Restaurant Food in this city shall keep such records, receipts, invoices, and other pertinent papers as the city clerk may require. Every such Rental Vehicle business owner, Hotel-Motel owner, seller of Liquor By-The-Drink and seller of Restaurant Food who files tax payments required under this ordinance shall keep all such records for not less than four (4) years after making such payments unless the city clerk in writing authorizes their destruction.

(C) The city clerk, or any person authorized in writing by the clerk, may examine the books, papers, records and equipment of any person renting Rental Vehicles, any Hotel-Motel owner, any person selling Liquor By-The-Drink and any person selling Restaurant Food, or any person liable for any tax thereon, and may investigate the character of the business of the person in order to verify the accuracy of any return made, or if no return is made by the person, to ascertain and determine the amount required to be paid. Any persons who rent Rental Vehicles, any Hotel-Motel owners, any persons who sell Liquor By-The-Drink and any persons who sell Restaurant Food, whose pertinent records are kept outside of the city, must bring the records to the city for examination by the city clerk upon request of the city clerk, or by agreement with the city clerk permit an auditor designated by the city clerk to visit the place where the records are kept, and there audit such records. (Ord. 950 §1, 2006)

5.32.190 Penalties. (A) Any person who violates any provision of this ordinance shall be guilty of a misdemeanor, punishable by up to one year in the county jail, and/or three hundred dollars (\$300.00) fine, or both. Furthermore, each month in which a person fails to report, or intentionally fails to accurately compute, or intentionally fails to accurately disclose the total amount of sales or rentals or the amount of tax to be paid, as imposed under this ordinance, shall be considered a separate offense.

(B) Any person who violates any provision of this ordinance shall have his municipal non-property tax permit and tax number revoked. The city clerk shall send written notice of revocation of the permit and tax number to the permit holder by mailing the permit certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date the notice is mailed to file a written request for appeal with the city council, challenging the revocation. If no appeal is timely made, the revocation becomes final. Whenever a person subject to this ordinance has had a permit and tax number revoked, the city clerk shall not reissue the permit nor issue a new permit to the person until the person places with the city clerk a bond or other sufficient security in the amount equal to three (3) times the actual, determined or estimated average monthly amount of tax payable by such person pursuant to this ordinance.

(C) The city clerk, whenever it is deemed necessary to insure compliance with this ordinance, may require any person subject to this ordinance to place with the city clerk such security as the city clerk may determine, but not in an amount greater than three (3) times the estimated average monthly amount payable by such person pursuant to this ordinance. The amount of the security may be increased or decreased by the city clerk at any time, subject to the limitations set forth above.

(D) Any person who violates any provision of this ordinance shall have all municipal beer license(s), and wine license(s), and retail liquor by-the-drink license(s) revoked.

(E) Any amount of tax due under this ordinance for which a person fails to report or accurately compute, shall become a lien upon the property of the taxpayer on the date that the same becomes due, and the city may seek to enforce the lien and collect all taxes and interest due together with the reasonable costs of collection, including attorney's fees, in a court of competent jurisdiction.

(F) For the purpose of proper administration of this ordinance and to prevent evasion of non-property taxes, the burden of proving that the rental of a Rental Vehicle or a Hotel-Motel room or the Retail Sale of Liquor By-The-Drink or Restaurant Food is not subject to a non-property tax imposed by this ordinance, is upon the person who makes the sale or rental in question. (Ord. 950 §1, 2006)

5.32.200 Penalty charge. Any person who is required to collect, truthfully account for and pay over any tax imposed by this ordinance and who willfully fails to collect such a tax or truthfully account for or pay over such a tax, or willfully attempts in any manner to evade or defeat such a tax or payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to five percent (5%) per month for a maximum of twenty-five percent (25%) of the amount of the tax evaded, or not collected, or not accounted for and paid over. The city clerk shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the city clerk. The city clerk shall send written notice of such penalty charge to the permit holder by mailing the notice by certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date the notice is mailed to file a written request of appeal with the city council challenging the penalty charge determination. If no appeal is timely made, the penalty charge determination becomes final. (Ord. 950 §1, 2006)

5.32.210 Exemptions. All transactions by the State of Idaho, otherwise subject to imposition of the taxes imposed by this ordinance, are exempt from the provisions of this ordinance. (Ord. 950 §1, 2006)

Chapter 5.36OFF-AIRPORT RENTAL CAR OPERATOR LICENSE AND USE AGREEMENTSections:

5.36.010	Purpose.
5.36.020	Applicability.
5.36.030	License.
5.36.040	Requirements.
5.36.050	Prohibited actions and activities.
5.36.060	Advertising and telephones.
5.36.070	Condition of strict compliance.
5.36.080	Violation procedure.
5.36.090	Hearings.
5.36.100	Appeals.
5.36.110	License application fee.
5.36.120	Penalty.

5.36.010 Purpose. In order to protect the public, to provide for public safety, to preserve the good order and peace of the Friedman Memorial Airport (Airport), and to regulate the entrances to property and buildings of the Airport and the way of ingress and egress to and from the same, it is necessary to enact reasonable standards, controls, rules, regulations and procedures for off-airport rental car businesses. (Ord. 955 §1, 2006)

5.36.020 Applicability. A person, persons or corporation desiring access to the Airport for the purpose of conducting off-airport rental car business operations, either directly or indirectly, shall first obtain an Off-Airport Rental Car Operator License and Use Agreement (License) prior to conducting any such business on Airport property. (Ord. 955 §1, 2006)

5.36.030 License. Licenses will be issued annually for a twelve month period within thirty (30) days after the application for the License has been submitted to the Airport Manager, provided the application is approved. (Ord. 955 §1, 2006)

5.36.040 Requirements. The Airport Manager may issue a License only upon receipt of a signed and verified application from the off-airport rental car operator containing the following information and proof:

A. The names and addresses of every person or corporation having an interest in the business.

B. For corporations not traded publicly, the names and addresses of every person having an interest in the business.

C. The make, model, color, identification number, and motor vehicle identification number of all vans and/or limousines to be operated on Airport property.

D. The names and job titles of local management personnel, as well as all business employees engaged in the operation of vans to be operated on Airport property.

E. Proof of all business and motor vehicle permits required by local, state and federal authorities.

F. A properly executed Off-Airport Rental Car Operator License and Use Agreement.

(Ord. 955 §1, 2006)

5.36.050 Prohibited actions and activities. A License shall not be construed to permit a business holding such License to have an office or station on Airport property, to solicit business on Airport property, to park rental cars on Airport property, or to operate rental cars on Airport property; and all of these actions and activities are expressly prohibited. (Ord. 955 §1, 2006)

5.36.060 Advertising and telephones. An off-airport rental car business not having a License shall not advertise on Airport property and shall not utilize a telephone service on Airport property. (Ord. 955 §1, 2006)

5.36.070 Condition of strict compliance. Every License issued pursuant to this chapter shall be conditioned upon strict compliance with the regulations set forth in this chapter, the rules and regulations of the Friedman Memorial Airport Authority, and the terms and conditions of the License. (Ord. 955 §1, 2006)

5.36.080 Violation procedure. Upon a showing of sufficient cause to believe that a violation of the rules and regulations specified in this chapter and/or under the terms and conditions of the License has occurred, the Airport Manager may:

A. Initiate proceedings to suspend or revoke the License by notifying the Licensee of the possible suspension or revocation of the License and the grounds therefore. The notice shall specify the date, time and place of the hearing before the Friedman Memorial Airport Authority on the possible suspension or revocation of the License and shall be served on the licensee by certified mail, personal service or substituted service at least ten (10) working days before the scheduled date of the hearing. Failure of the licensee to actually receive a notice sent or served shall not invalidate the proceedings.

B. Immediately suspend the License upon a determination that the conduct of the licensee and his continued operation at the Friedman Memorial Airport presents an exigent danger or detriment to persons or property:

1. In such event, the Airport Manager shall notify the licensee by certified mail or personal service that the License must immediately cease and desist all activity authorized by the License.

2. The notice shall specify the grounds for the immediate suspension of the License and the date, time and place of the hearing before the Friedman Memorial Airport Authority on the continued suspension or possible revocation of the License. The hearing shall be held not more than five (5) working days from receipt by the licensee of the notice to cease and desist.

3. If the Friedman Memorial Airport Authority determines to continue suspension of the License or to revoke the License, the effective date of such suspension or revocation shall be the date the licensee received the notice to cease and desist. (Ord. 955 §1, 2006)

5.36.090 Hearings. Hearing on a denial of the issuance or transfer of a License under this chapter or on the suspension or revocation of a License under this chapter shall be before the Friedman Memorial Airport Authority. At such hearing the licensee may present evidence, call witnesses and be represented by counsel. The Friedman Memorial Airport Authority may render its decision orally at the conclusion of the hearing, but shall provide the License applicant or licensee with written notice of its decision not later than five (5) business days after the date of the hearing.

A. On appeal of a denial of the issuance or transfer of a License, the Friedman Memorial Airport Authority may affirm the denial or approve the issuance or transfer of a License, and may, upon approval thereof, impose such reasonable conditions related to the use of the License as are appropriate in the circumstances.

B. After hearing on the suspension or revocation of a License, the Friedman Memorial Airport Authority may:

1. Revoke the License.
 2. Suspend the License for a period not to exceed sixty (60) days. In its decision to suspend a License, the Friedman Memorial Airport Authority may provide for the reinstatement of the License prior to the expiration of the suspension period upon the fulfillment of such reasonable conditions as the Authority may impose, and may further provide that in the event such conditions have not been fulfilled upon the expiration of the suspension period, the period of suspension will be extended for a stated additional period. In the event of an extension, notice thereof and the reasons therefore shall be provided to the Licensee, but further hearing shall not be required, unless requested in writing by the licensee. Provided, however, that no suspension shall be continued for a total period in excess of sixty (60) days without notice and hearing as provided in this chapter.
 3. Issue a letter of warning notifying the licensee that any further violation may result in the suspension or revocation of the License.
 4. Allow the use of the License to continue and impose such reasonable conditions related to the use of the License as appropriate under the circumstances.
- (Ord. 955 §1, 2006)

5.36.100 Appeals. An appeal of the decision of the Friedman Memorial Airport Authority under this chapter may be taken to the Hailey city council by filing a notice of appeal with the city clerk within ten (10) working days of the date of the written decision of the Authority. Notice of the date of hearing before the council shall be provided to the appellant within fourteen (14) days of the hearing. At the hearing before the council, the appellant may present evidence, call witnesses and be represented by counsel. The council may affirm or reverse the decision of the Authority, and may delete or modify conditions imposed by the Authority, or impose such reasonable conditions as it deems appropriate. (Ord. 955 §1, 2006)

5.36.110 License application fee. There shall be a charge of one hundred dollars (\$100.00) payable in advance to defray administrative costs of a License request for each License. This cost is not refundable in the event the License application is rejected or in the event the License is revoked. (Ord. 955 §1, 2006)

5.36.120 Penalty. The violation of any provision of this ordinance shall be considered a misdemeanor punishable by a fine of three hundred dollars (\$300.00) and/or six (6) months jail, or both such fine and imprisonment. Each day that such violation continues shall be considered a separate offense. (Ord. 955 §1, 2006)