



City of Ketchum

CITY COUNCIL MEETING AGENDA MEMO

Meeting Date: Staff Member/Dept:

Agenda Item:

Recommended Motion:

Staff is not requesting formal action, rather general policy feedback regarding draft updates proposed to Title 1 (General Provisions), Title 2 (Administration and Personnel), Title 3 (Revenue and Finance), and Title 4 (Commissions and Boards).

Reasons for Recommendation:

- The city has completed the reorganization of the land-use sections (12, 15-17) of city code. This project seeks to update the remaining non-land-use titles to reflect current operational realities and best practices
- Staff is seeking policy direction from the council regarding recommended edits before proceeding with scheduling First Reading
- During the January 26th meeting, the City Council received an initial briefing and requested staff to evaluate the following topics for consideration into Title 2:
 - Ranked-choice voting
 - *Idaho state law prohibits ranked-choice voting for local, state, and federal offices, meaning municipalities cannot adopt it on their own. This law was enacted to explicitly ban the use of ranked-choice voting in elections within the state.*
 - *In 2024, Idaho voters rejected Proposition 1, a statewide ballot initiative that would have created a ranked-choice voting system for general elections and top-four primaries. Because it was defeated, ranked-choice voting was not implemented at any level in Idaho.*
 - Run-off elections
 - Staff has added provisions which would create runoff elections for Mayor and City Council seats should candidates not receive 50% plus one.
 - Designated Council seats
 - Ketchum could implement designated seat election criteria, however the seats would not correspond to specific geographic zones in the city, unless it was established by ordinance to provide for districts and the election of council by districts. Therefore, designated seat elections would just be specific toward the incumbent or other candidates running for that specific seat. Staff has NOT added this provision to the draft code.
- Staff is proposing with the Mayor's support to combine the Arts Commission (KAC) and the Historic Preservation Commission (HPC) into one 'Arts and Historical Preservation Commission'. The previous land-use duties would transfer from the current Historic Preservation Commission to the Planning and Zoning Commission.

Sustainability Impact:

None.

Financial Impact:

None OR Adequate funds exist in account:

None.

Attachments:

1. Titles 1-4 (side by side comparison)

2. Titles 1-4 clean

TITLE 1 GENERAL PROVISIONS

CHAPTER 1.04 GENERAL CODE PROVISIONS

1.04.010 Definitions.

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

Alley: A minor improved or unimproved public way providing secondary and/or service access to the back or the side of a property otherwise abutting a street.

City: The City of Ketchum, the area within the territorial limits of the City, and such territory outside the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision.

Council: The City Council of the City of Ketchum. "All its members" or "all Council Members" means the total number of Council Members holding office.

County: The County of Blaine.

Law: Denotes applicable federal law, the constitution and statutes of the State of Idaho, the ordinances of the City, and, when appropriate, any and all rules and regulations which may be promulgated thereunder.

May: Is permissive.

Month: A calendar month.

Must and shall: Are each mandatory.

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

Owner: Applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant, tenant by the entirety, of the whole or a part of such building or land.

Person: Means and includes a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

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

Preceding and following: Next before and next after, respectively.

Property: Means and includes real and personal property.

Real property: Means and includes lands, tenements and hereditaments.

Sidewalk: That portion of a street or private property developed with a hard surface walkway for the use of pedestrians.

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State: The State of Idaho.

Street: A public or private right-of-way, which provides vehicular or pedestrian access to more than four dwelling units. "Street" also includes the terms "highway", "boulevard", "parkway", "thoroughfare", "road", "avenue", "lane", "place" and all such terms except "driveway".

Tenant and occupant: Applied to a building or land, mean and include any person who occupies the whole or a part of such building or land, whether alone or with others.

Written: Means and includes printed, typewritten, mimeographed, multigraphed, or otherwise reproduced in permanent visible form.

Year: A calendar year.

(Ord. 778 § 1, 1999)

1.04.020 Interpretation of language.

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

(Ord. 778 § 2, 1999)

1.04.030 Grammatical interpretation.

The following grammatical rules shall apply in the ordinances of the City unless it is apparent from the context that a different construction is intended:

- A. *Gender.* Each gender includes the masculine, feminine and neuter genders.
- B. *Singular and plural.* The singular number includes the plural, and the plural includes the singular.
- C. *Tenses.* Words used in the present tense include the past and the future tenses and vice versa, unless manifestly inapplicable.

(Ord. 778 § 3, 1999)

1.04.040 Acts by agents.

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

(Ord. 778 § 4, 1999)

1.04.050 Prohibited acts include causing and permitting.

Whenever in the ordinances of the City any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

(Ord. 778 § 5, 1999)

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(Ord. 778 § 5, 1999)

1.04.060 Computation of time.

Except when otherwise provided, the time within which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Saturday, Sunday or a legal holiday, in which case, the period runs until the end of the next day which is neither Saturday, Sunday nor legal holiday.

(Ord. 778 § 6, 1999)

1.04.070 Construction.

The provisions of the ordinances of the City, and all proceedings under them, are to be construed with a view to effect their objects and to promote justice.

(Ord. 778 § 7, 1999)

1.04.080 Repeal shall not revive any ordinances.

The repeal of an ordinance shall not repeal the repealing clause of an ordinance or revive any ordinance.

(Ord. 778 § 8, 1999)

1.04.090 Saving and severability clause.

It is declared to be the legislative intent that the provisions and parts of this code shall be severable. If any paragraph, part, section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this code.

(Ord. 778 § 9, 1999)

CHAPTER 1.08 CORPORATE SEAL

1.08.010 Description of corporate seal.

The corporate seal of the City of Ketchum, Idaho, shall be circular in form approximately two inches in diameter, more or less, with an inner and outer circle, the inner circle to be approximately one-fourth-inch less in diameter than the outer circle. The seal shall bear in the space between the inner and outer circles substantially the following: "City of Ketchum, Blaine County, Idaho", and upon the space within the inner circle the word "Seal".

(Ord. 22 § 1, 1956; Ord. 781 § 1, 1999)

1.08.020 Adoption.

The corporate seal, the impression of which is described in section 1.08.010 of this chapter, is adopted and declared to be the official seal of the City of Ketchum, Blaine County, Idaho.

(Ord. 22 § 2, 1956; 2000 Code)

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CHAPTER 1.12 ORDINANCES

1.12.010 Presentation of ordinance.

All ordinances of a general or permanent nature shall be typewritten or printed and presented at a regular or at a special meeting of the City Council by a member, at the call for which provision for presentation of such ordinance is made.

(Ord. 21 § 1, 1956; 2000 Code)

1.12.020 Rules for reading ordinances; subjects.

Every such ordinance shall be fully and distinctly read on three different days, unless three-fourths of the City Council shall dispense with the rule. An ordinance shall contain no subject which shall not be clearly expressed in its title, and no ordinance or section of such ordinance shall be revised or amended unless the new ordinance or section so revised or amended shall be repealed.

(Ord. 21 § 2, 1956; 2000 Code)

1.12.030 Recording vote.

On the passage or adoption of every ordinance of a general or permanent nature, the yeas and nays shall be called and recorded, and to pass or adopt the same, a concurrence of a majority of the whole number of members of the City Council shall be required.

(Ord. 21 § 3, 1956; 2000 Code)

1.12.040 Signing ordinance.

When any such ordinance is passed, it shall be signed by the Mayor and by the City Clerk, and the date of its adoption or passage by the City Council shall be necessary to pass the same.

(Ord. 21 § 4, 1956; 2000 Code)

1.12.050 Time of taking effect.

Ordinances making the annual tax levy and appropriations shall take effect immediately upon their passage. Ordinances granting franchises of any kind shall take effect not less than 30 days after their passage and approval. All other ordinances enacted by the City Council shall take effect upon their passage, approval and publication; provided, however, that the ordinance may fix a later date on which it may take effect, in which event, it shall take effect at such later date. Ordinances adopted by the electors of the City shall take effect at the date fixed in such ordinance, or if no such time is designated, at the date of adoption.

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~~(Ord. 21 § 5, 1956; 2000 Code)~~

Commented [LE1]: Delete chapter. Governed by Idaho code.

1.12.060 Publication.

Each ordinance shall be published by being inserted in one issue of an official newspaper. Publication must be made within three weeks from the date of signing the ordinance.

(Ord. 21 § 6, 1956)

1.12.070 Permanent record of ordinances.

It shall be the duty of the City Clerk to safely keep the original ordinances as passed and adopted, and to copy the same in a book provided for that purpose, and to attach to each a certificate over the seal of the City that the same is a true and correct copy of the original ordinance as passed.

(Ord. 21 § 7, 1956)

1.12.080 Special ordinances and resolutions.

All ordinances of a special or limited nature and all resolutions in the nature of ordinances and orders to enter into contracts shall be presented in writing to the City Council by a member. Such orders, resolutions or ordinances may be disposed of on one reading, or otherwise as the City Council may determine. On the final passage of any such ordinance, resolution or order, the yeas and nays shall be called and recorded, and the concurrence of a majority of the whole number of the City Council shall be necessary to pass the same.

(Ord. 21 § 8, 1956; 2000 Code)

1.12.090 Rules on special ordinances and resolutions.

Ordinances of a special or limited nature, resolutions and orders to enter into contracts shall be entered in full upon the minutes of the proceedings of the City Council but, unless otherwise directed by the City Council, shall not be entered in the book of ordinances, and shall not be published unless so required by the City Council or unless publication is required by law.

(Ord. 21 § 9, 1956; 2000 Code)

1.12.100 Consent calendar.

- A. When the Mayor determines that any item of business requires action by the Council, but is of a routine and noncontroversial nature, (s)he may cause such item to be presented at a regular meeting of the Council as part of a consent calendar.
- B. The consent calendar shall be introduced by a motion: "To approve the consent calendar", and shall be considered by the Council as a single item.
- C. There shall be no debate or discussion by any member of the Council regarding any item on the consent calendar, beyond asking questions for simple clarification.
- D. On objection by any member of the Council to inclusion of any item on the consent calendar, that item shall be removed from the consent calendar. Such objection may be recorded at any time prior to the taking of a vote on the motion to approve the consent calendar. All such items shall be considered individually, in the order in which they were objected to, immediately following consideration of the consent calendar.

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- E. Approval of the motion to approve the consent calendar shall be fully equivalent to approval, adoption or enactment of each motion, resolution, ordinance, or other item of business thereon, exactly as if each had been acted upon individually. Approval of the motion must be by roll call vote.
 - F. The City Clerk shall record in the Council minutes each item passed under the consent calendar individually and in full or, if possible, separately.
- (Ord. 592 §§ 1, 2, 3, 4, 5, 6, 1992)

CHAPTER 1.20 OFFICIAL NEWSPAPER

1.20.010 Designated.

- A. This chapter is adopted to designate the official newspaper for the City of Ketchum, Idaho, as required by Idaho Code section 50-213.
 - B. The "Idaho Mountain Express", as a newspaper which meets the requirements of Idaho Code section 60-106 et seq., shall be and the same is designated as the official newspaper for the City of Ketchum, Idaho.
- (Ord. 475 §§ 1, 2, 1988)

CHAPTER 1.24 PRECINCTS

1.24.010 Designated.

The City has designated one election precinct for the purpose of election of City officials and all general and special elections, the election precinct being the same as the City limits of the City.

(Ord. 620 § 1, 1993)

CHAPTER 1.28 COMPREHENSIVE PLAN

1.28.010 Comprehensive plan and land use map adopted.

- A. That certain comprehensive plan and land use map for the City of Ketchum, Idaho, entitled "the Ketchum comprehensive plan" dated April 8, 1983, is adopted.
 - B. Adoption of the comprehensive plan and land use map is done by reference, in the manner authorized by Idaho Code sections 67-6509 and 50-901. At least three copies of the plan and map are on file with the office of the Ketchum City Clerk in the Ketchum City Hall, 480 East Avenue North, Ketchum, Idaho, and are available for public inspection.
- (Ord. 372 §§ 1, 2, 1983)

CHAPTER 1.32 RIGHT OF ENTRY

~~E. Approval of the motion to approve the consent calendar shall be fully equivalent to approval, adoption or enactment of each motion, resolution, ordinance, or other item of business thereon, exactly as if each had been acted upon individually. Approval of the motion must be by roll call vote.~~

~~F. The City Clerk shall record in the Council minutes each item passed under the consent calendar individually and in full or, if possible, separately.~~

~~(Ord. 592 §§ 1, 2, 3, 4, 5, 6, 1992)~~

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CHAPTER 1.24 PRECINCTS

Commented [LE2]: Delete. Governed by County.

~~1.24.010 Designated.~~

~~The City has designated one election precinct for the purpose of election of City officials and all general and special elections, the election precinct being the same as the City limits of the City.~~

~~(Ord. 620 § 1, 1993)~~

CHAPTER 1.28 COMPREHENSIVE PLAN

Commented [LE3]: Delete. Referenced in Chapters 16 and 17 of city code.

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- ~~(Ord. 372 §§ 1, 2, 1983)~~

CHAPTER 1.32 RIGHT OF ENTRY

1.32.010 Entry to any building or premises.

Whenever any officer or employee of the City is authorized to enter any building or premises for the purpose of making an inspection to enforce any ordinance, the officer or employee may enter such building or premises at all reasonable times to inspect the same pursuant to section 1.32.020 of this chapter, except in emergency situations, or when consent of the person having charge or control of such building or premises has been otherwise obtained.

(Ord. 780 § 1, 1999)

1.32.020 Presentation of proper credentials.

If the building or premises to be inspected is occupied, the authorized officer or employee shall first present proper credentials and demand entry. If such building or premises is unoccupied, the officer or employee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and demand entry. If consent to such entry is not given, the authorized officer or employee shall have recourse to every remedy provided by law to secure entry.

(Ord. 780 § 2, 1999)

1.32.030 Controlling over other ordinances.

This chapter shall be controlling over any other ordinance or part of an ordinance on the same subject, whether heretofore or hereafter adopted, unless such ordinance or part of an ordinance provides differently by an express reference to this chapter. Notwithstanding any other ordinance of the City, it shall not be a violation of this chapter to refuse or fail to consent to an entry for inspection.

(Ord. 780 § 3, 1999)

CHAPTER 1.36 GENERAL PENALTY

1.36.010 General penalty.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City shall be guilty of an infraction unless the violation is made a misdemeanor by ordinance.

(Ord. 779 § 1, 1999)

1.36.020 Misdemeanor penalty and fine.

Except in cases where a different punishment is prescribed by section 1.36.030 of this chapter or any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than \$300.00 or by imprisonment not to exceed six months, or by both such fine and imprisonment.

(Ord. 779 § 2, 1999)

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(Ord. 779 § 1, 1999)

1.36.020 Penalties, Fines and Fees Misdemeanor penalty and fine.

~~Unless otherwise specified in this code, all penalties, fines, and administrative fees shall be established by resolution of the City Council. The current schedule of such fees and penalties is contained in the City's adopted fee resolution, as amended from time to time. Except in cases where a different punishment is prescribed by section 1.36.030 of this chapter or any ordinance of the City, any person convicted of a misdemeanor for violation of an ordinance of the City is punishable by a fine of not more than \$300.00 or by imprisonment not to exceed six months, or by both such fine and imprisonment.~~

~~(Ord. 779 § 2, 1999)~~

Commented [LE4]: Delete and added reference to fee schedule rather than listing individual fees throughout code.

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1.36.030. Fines within federal mandated program.

In the event the City is participating in a federally mandated program wherein penalties or enforcement remedies are required by the terms of participation in the program, the City may enforce such requirements by ordinance to include a criminal or civil monetary penalty not to exceed \$1,000.00, or imprisonment for criminal offenses not to exceed six months. The City may include both a fine and imprisonment for such criminal offenses.

(Ord. 779 § 3, 1999)

1.36.040 Infraction penalty and fine.

Any person convicted of an infraction for violation of an ordinance of the City is punishable by a penalty of not more than \$100.00.

(Ord. 779 § 4, 1999)

1.36.050 Separate offense.

Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the City is committed, continued or permitted by any such person, and such person shall be punishable accordingly.

(Ord. 779 § 5, 1999)

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TITLE 2 ADMINISTRATION AND PERSONNEL

CHAPTER 2.01 MAYOR AND CITY COUNCIL

2.01.010 Mayor.

The Mayor, as the City's Chief Executive Officer, shall:

1. Provide leadership in implementing the City's mission, ensuring the faithful execution of laws, ordinances, and policies, and advancing community values and quality of life.
2. Recommend policies, programs, and legislation to the City Council, and exercise any statutory or charter authority, including the power to approve or veto ordinances as provided by law.
3. Represent the City in intergovernmental, community, and public affairs, and serve as the primary spokesperson for City government.
4. And as other specific duties as outlined in State law.

2.01.020 City Council.

The City Council, consisting of 4 members in non-designated seat, as the legislative body of the City, shall:

1. Establish policies, adopt ordinances and resolutions, approve the annual budget, and provide for the prudent use of City resources to advance the community's values and quality of life.
2. Represent the interests of residents by setting strategic goals, reviewing and evaluating City programs and services, and ensuring accountability in municipal operations.
3. Act collectively to direct the City's affairs, working with the Mayor and staff to implement policies and programs in compliance with applicable laws.
4. And as other specific duties as outlined in State law.

2.01.030 City Council Meetings.

1. *Parliamentary Procedures*: City Council meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised, as a guide for orderly procedure, except where superseded by state law, City code, or adopted Council rules, following the basic principles:
 - a. Agenda Items – Eash meeting shall have the following components:
 - 1) Consent calendar
 - 2) Public hearings
 - 3) New business
 - 4) Executive session

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- b. **Orderly Conduct** – Only one person speaks at a time; remarks are addressed to the presiding officer.
 - c. **Motions** – A proposal for Council action; requires a second before debate.
 - d. **Debate** – Members may discuss the motion, with the presiding officer ensuring fair opportunity for all to speak.
 - e. **Voting** – Actions are decided by majority vote unless otherwise required by law.
 - f. **Records** – All actions taken are recorded in the official minutes.
2. **Quorum:** Pursuant to Idaho Code § 50-705, a quorum shall consist of a majority of the duly elected members of the Council; the minimum number of City Council members who must be present to conduct official business. No ordinance, resolution, or motion shall be passed without the concurrence of at least a majority of the full Council. No action may be taken without a quorum present, except to adjourn or recess a meeting. **Regular Meetings:** The regular meetings of the City Council of the City of Ketchum, Idaho, shall be held on the first and third Mondays of each month at the hour of 4:00 p.m. in Ketchum City Hall. Council shall adopt an resolution annually designating meeting dates and times, which will be posted on the city website
- (Ord. 739 § 1, 1999; Ord. 870 § 1, 2001)
4. **Special Meetings:** Special meetings of the City Council may be called at any time by the Mayor alone or by a majority of members of the Council. The call for all special meetings shall state the object and purposes of such meetings, and no other business shall be transacted at such meetings.

2.01.070 Reconsideration and Appeals.

- 1. Reconsideration
 - a. Any applicant or affected person seeking judicial review of the City Council's final decision must first file a written request for reconsideration with the City Council within fourteen (14) days of the decision, specifying the deficiencies in the decision for which reconsideration is sought.
 - b. The Council may reconsider only on one or more of the following grounds:
 - 1) Clerical error,
 - 2) Fraud or mistake,
 - 3) New evidence or changed circumstances,
 - 4) Procedural error,
 - 5) A tie vote in the initial decision, or
 - 6) Violation of substantive law.

- b. **Orderly Conduct** – Only one person speaks at a time; remarks are addressed to the presiding officer.
 - c. **Motions** – A proposal for Council action; requires a second before debate.
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3. **Regular Meetings:** The regular meetings of the City Council of the City of Ketchum, Idaho, shall be held on the first and third Mondays of each month at the hour of 4:00 p.m. in Ketchum City Hall, commencing on January 7, 2019. Council shall adopt an resolution annually designating meeting dates and times, which will be posted on the city website
- (Ord. 739 § 1, 1999; Ord. 870 § 1, 2001)
4. **Special Meetings:** Special meetings of the City Council may be called at any time by the Mayor alone or by a majority of members of the Council. The call for all special meetings shall state the object and purposes of such meetings, and no other business shall be transacted at such meetings.

2.01.040 Special ordinances and resolutions.
 All ordinances of a special or limited nature and all resolutions in the nature of ordinances and orders to enter into contracts shall be presented in writing to the City Council by a member. Such orders, resolutions or ordinances may be disposed of on one reading, or otherwise as the City Council may determine. On the final passage of any such ordinance, resolution or order, the yeas and nays shall be called and recorded, and the concurrence of a majority of the whole number of the City Council shall be necessary to pass the same.
 (Ord. 2148, 1956, 2000 Code)

2.01.050 Rules on special ordinances and resolutions.
 Ordinances of a special or limited nature, resolutions and orders to enter into contracts shall be entered in full upon the minutes of the proceedings of the City Council but, unless otherwise directed by the City Council, shall not be entered in the book of ordinances, and shall not be published unless so required by the City Council or unless publication is required by law.
 (Ord. 2149, 1956, 2000 Code)

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- c. At its next regular meeting, the Council shall consider whether to grant reconsideration. If granted, a hearing limited to the specified deficiencies shall be scheduled and conducted in accordance with public notice requirements.
- d. Within sixty (60) days following receipt of the request, the Council shall issue a written decision to affirm, reverse, or modify, in whole or in part, the original decision. If the Council does not act within that time, the reconsideration request is deemed denied.

2. Appeal

- a. If the Council issues a final decision – either initially or following reconsideration – an affected person may seek judicial review in the district court, as provided by Chapter 52, Title 67, Idaho Code, within twenty-eight (28) days after all local remedies have been exhausted.
- b. Upon receipt of a judicial review petition, the City shall prepare and provide the administrative record in accordance with Idaho law.
- c. Any actions or determinations not expressly listed in this section as appealable to the City Council shall be subject to the reconsideration or appeal procedures outlined within the corresponding chapters of this code.

2.01.080 Compensation.

In accordance with Idaho Code title 50, compensation for the Mayor and City Council members shall be fixed by ordinance at least seventy-five (75) days prior to any general City election. Annual salaries are effective January 1 of the following year.

Commencing January 1, 2008, the compensation of the Mayor and of the members of the City Council shall be as follows:

- 1. The Mayor shall receive a monthly salary in the sum of \$3,000.00. Furthermore, beginning January 1, 2009, and continuing each January thereafter, the Mayor shall receive a cost of living adjustment (COLA) to such salary in the same amount afforded to City of Ketchum employees. The Mayor shall also receive health benefits, dental benefits, vision benefits, long term disability benefits and healthcare reimbursement account benefits in the same amount afforded to City of Ketchum employees. The Mayor shall also receive Idaho PERSI retirement benefits in the same amount afforded to City of Ketchum employees as prescribed by Idaho Code section 59-1322. If such benefits are declined by the Mayor, a monthly payment shall be made compensating the Mayor for benefits in an amount not to exceed the value of the benefits; and
- 2. Each member of the Council shall receive a monthly salary in the sum of \$1,666.67. Furthermore, beginning January 1, 2009, and continuing each January thereafter, each member of the Council shall receive a cost of living adjustment (COLA) to such salary in the same amount afforded to City of Ketchum employees. Each member of the Council shall also receive health benefits, dental benefits, vision benefits, long term disability benefits and healthcare reimbursement account benefits in the same amount afforded to City of Ketchum employees. Each member of the Council shall also receive Idaho PERSI retirement benefits in the same amount afforded to City of Ketchum employees as prescribed by Idaho Code section 59-1322. If such benefits are declined by a member of the Council, a monthly payment shall be made compensating such member of the Council for benefits in an amount not to exceed the value of the benefits.
- 3. No other compensation shall be afforded to the Mayor or Council Members.

(Ord. 1023 § 1, 2007)

2.01.070 Reconsideration and Appeals.

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- a. Any applicant or affected person seeking judicial review of the City Council's final decision must first file a written request for reconsideration with the City Council within fourteen (14) days of the decision, specifying the deficiencies in the decision for which reconsideration is sought.
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 - 1) Clerical error.
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2.01.090 Elections.

1. Run-Off Elections for Mayor
 - a. **Majority Vote Required.** A majority of the voters cast for the office of Mayor shall be required for election.
 - b. **Run-Off Election.** If no candidate receives a majority of the votes cast at a general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes.
 - c. **Tie for Second Place.** In the event of a tie between candidates receiving the second and third highest number of votes, the candidate to oppose the candidate receiving the highest number of votes in the run-off election shall be determined by the toss of a coin.
 - d. **Conduct of Election.** The run-off election shall be conducted in the same manner as a general election and shall be held within thirty (30) days following the general election.
 - e. **Notice and Polling Places.** The City Clerk shall publish the first notice of the run-off election in the official newspaper not less than twenty (20) days prior to the election. The City Clerk shall designate the polling places before **publication** of the notice.
 - f. **Recount; Cancellation of Run-Off.** The results of the general election shall be subject to change as a result of a recount. If, following a recount that becomes final at least twenty-four (24) hours prior to the scheduled run-off election, a candidate is determined to have received a majority of the votes cast, the City Council may cancel the run-off election.
2. Run-Off Elections for City Council
 - a. **Majority Vote Required.** A majority of the voters cast for the office of City Council member shall be required for election.
 - b. **Run-Off Election.** If no candidate for a City Council seat receives a majority of the votes cast at a general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes.
 - c. **Tie for Second Place.** In the event of a tie between candidates receiving the second and third highest number of votes, the candidate to oppose the candidate receiving the highest number of votes in the run-off election shall be determined by the toss of a coin.
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(Ord. 1023 § 1, 2007)

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CHAPTER 2.02 APPOINTED OFFICERS

2.02.010 Appointment of Officers.

The Mayor, with the consent of the Council, shall appoint the City Administrator, City Clerk, City Treasurer and City Attorney. Appointed officers may be removed from office either by the mayor and two council members, or only by three members of council.

2.02.020 Officer Duties.

1. City Administrator
 - a. Oversee day-to-day city operations consistent with Council policies and the Mayor's direction,
 - b. Supervise department heads and support effective interdepartmental coordination,
 - c. Assist in preparing the annual budget and advise on financial and operational matters,
 - d. Provide administrative support to the City Council, including attendance at meetings and preparation of reports,
 - e. Act as point of contact for residents, businesses, other governmental agencies, and the community, and
 - f. Perform additional duties as assigned by the Mayor or City Council.
2. City Clerk
 - a. Keep the official records of the City, including ordinances, resolutions, minutes, and contracts,
 - b. Maintain the City seal and attest official documents,
 - c. Administer oaths of office when required by law,
 - d. Act as custodian of public records and manage requests under Idaho Law,
 - e. Issue licenses and permits as authorized by ordinance, and
 - f. Perform such other duties as may be required by law, ordinance, or direction of the Mayor and Council.
3. City Treasurer
 - a. Collect, receive and safely keep all city funds,
 - b. Deposit city funds in approved depositories,
 - c. Keep accurate records of all receipts and disbursements,
 - d. Disburse funds only upon proper authorization and warrant,
 - e. Provide regular financial reports to the Mayor and Council,
 - f. Assist with budget preparation and monitoring of city finances, and
 - g. Perform other duties as prescribed by law or directed by the Mayor and Council.
4. City Attorney
 - a. Act as legal advisor to the Mayor, Council, and city departments,

- b. **Run-Off Election.** If no candidate for a City Council seat receives a majority of the votes cast at a general election, a run-off election shall be held between the two (2) candidates receiving the highest number of votes.
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 - c. Assist in preparing the annual budget and advise on financial and operational matters,
 - d. Provide administrative support to the City Council, including attendance at meetings and preparation of reports,
 - e. Act as point of contact for residents, businesses, other governmental agencies, and the community, and
 - f. Perform additional duties as assigned by the Mayor or City Council.
2. City Clerk
 - a. Keep the official records of the City, including ordinances, resolutions, minutes, and contracts,
 - b. Maintain the City seal and attest official documents,
 - c. Administer oaths of office when required by law,

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- b. Draft ordinances, resolutions, contracts, and other legal documents,
- c. Represent the City in civil proceedings and prosecute ordinance violations as directed,
- d. Provide legal opinions and guidance to the Mayor, Council, and staff,
- e. Attend Council meetings when requested by the Mayor or Council, and
- f. Perform such other duties as may be required by law, ordinance, or direction of the Mayor and Council.

CHAPTER 2.03 DEPARTMENTS

2.03.010 Establishment of Departments.

The City Council may, by ordinance or resolution, create, consolidate, or dissolve departments as necessary for the efficient administration of City affairs. The administrative service of the City shall be organized into the following departments:

1. Administration
2. Community Engagement
3. City Clerk
4. Finance
5. Housing
6. Planning & Building
7. Police
8. Public Works
 - a. Facilities Division
 - b. Streets Division
 - c. Wastewater Division
 - d. Water Division
9. Recreation

2.03.020 Department Heads.

Each department shall be directed by a department head who shall be appointed by the City Administrator in consultation with the mayor, except appointed officers requiring City Council confirmation. Department heads shall be responsible for the administration and operation of their departments, including:

1. Implementing City policies and ordinances within their areas of responsibility,
2. Managing staff, budgets, and resources assigned to the department,
3. Advising the Mayor and Council on departmental matters,
4. Coordinating with other departments, boards, and commissions to further the City's goals, and

- d. Act as custodian of public records and manage requests under Idaho Law,
 - e. Issue licenses and permits as authorized by ordinance, and
 - f. Perform such other duties as may be required by law, ordinance, or direction of the Mayor and Council,
3. City Treasurer
- a. Collect, receive and safely keep all city funds,
 - b. Deposit city funds in approved depositories,
 - c. Keep accurate records of all receipts and disbursements,
 - d. Disburse funds only upon proper authorization and warrant,
 - e. Provide regular financial reports to the Mayor and Council,
 - f. Assist with budget preparation and monitoring of city finances, and
 - g. Perform other duties as prescribed by law or directed by the Mayor and Council.
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- a. Act as legal advisor to the Mayor, Council, and city departments,
 - b. Draft ordinances, resolutions, contracts, and other legal documents,
 - c. Represent the City in civil proceedings and prosecute ordinance violations as directed,
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5. Performing other duties as may be assigned by the Mayor or City Administrator.

CHAPTER 2.04 CODE OF ETHICS

2.04.010 Purpose.

The purpose of this chapter is to promote public confidence in the integrity of city government by establishing clear ethical standards for city officials, employees, and contractors. These standards are intended to supplement, not replace, the requirements of Idaho Code Title 74, Chapter 4, "Ethics in Government."

2.04.020 Applicability.

This chapter applies to all elected and appointed city officials, members of boards and commissions, city employees, and contractors acting on behalf of the City of Ketchum.

2.04.030 Conflicts of Interest.

1. **Prohibited Conduct.** No city official, employee, or contractor shall engage in any action, decision, or vote that may result in a direct or indirect financial benefit to themselves, their household members, or any business with which they are associated, when such benefit conflicts with the proper discharge of their official duties.
2. **Disclosure Required.** Any person covered by this chapter who has a potential conflict of interest shall disclose the nature of the conflict prior to participating in any discussion, decision, or action on the matter.
3. **Recusal.** Upon disclosure, the official or employee shall abstain from participation in the decision-making process when the conflict exists, unless otherwise permitted by Idaho Code.
4. **Use of Position.** No person shall use their position or city resources for personal gain, private advantage, or to benefit another in a manner inconsistent with public duties.

2.04.040 Gifts and Favors.

No city official, employee, or contractor shall solicit or accept any gift, favor, service, or item of value that could reasonably be perceived to influence, or appear to influence, the impartial performance of official duties. Acceptance of items of nominal value, such as promotional items, light refreshments, or awards of recognition customarily given in the ordinary course of civic or professional relationships, is permitted. Any gift or benefit received in connection with city service shall not exceed fifty dollars (\$50.00).

7. Police
8. Public Works
 - a. Facilities Division
 - b. Streets Division
 - c. Wastewater Division
 - d. Water Division
9. Recreation

2.03.020 Department Heads.

Each department shall be directed by a department head who shall be appointed by the City Administrator in consultation with the mayor, except appointed officers requiring City Council confirmation. Department heads shall be responsible for the administration and operation of their departments, including:

1. Implementing City policies and ordinances within their areas of responsibility.
2. Managing staff, budgets, and resources assigned to the department.
3. Advising the Mayor and Council on departmental matters.
4. Coordinating with other departments, boards, and commissions to further the City's goals, and
5. Performing other duties as may be assigned by the Mayor or City Administrator.

CHAPTER 2.04 CODE OF ETHICS

2.04.010 Purpose.

The purpose of this chapter is to promote public confidence in the integrity of city government by establishing clear ethical standards for city officials, employees, and contractors. These standards are intended to supplement, not replace, the requirements of Idaho Code Title 74, Chapter 4, "Ethics in Government."

2.04.020 Applicability.

This chapter applies to all elected and appointed city officials, members of boards and commissions, city employees, and contractors acting on behalf of the City of Ketchum.

2.04.030 Conflicts of Interest.

1. Prohibited Conduct. No city official, employee, or contractor shall engage in any action, decision, or vote that may result in a direct or indirect financial benefit to themselves, their household members, or any business with which they are associated, when such benefit conflicts with the proper discharge of their official duties.
2. Disclosure Required. Any person covered by this chapter who has a potential conflict of interest shall disclose the nature of the conflict prior to participating in any discussion, decision, or action on the matter.

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TITLE 2 - ADMINISTRATION AND PERSONNEL
CHAPTER 2.04 CITY COUNCIL MEETINGS

3. ~~Recusal. Upon disclosure, the official or employee shall abstain from participation in the decision-making process when the conflict exists, unless otherwise permitted by Idaho Code.~~

4. ~~Use of Position. No person shall use their position or city resources for personal gain, private advantage, or to benefit another in a manner inconsistent with public duties.~~

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CHAPTER 2.04 CITY COUNCIL MEETINGS

2.04.010 Regular meetings.

~~The regular meetings of the City Council of the City of Ketchum, Idaho, shall be held on the first and third Mondays of each month at the hour of 5:30 p.m. in the City Hall of the City, to commence June 18, 2001.~~

~~{Ord. 730 § 1, 1999; Ord. 870 § 1, 2003}~~

2.04.020 Special meetings.

~~Special meetings of the City Council may be called at any time by the mayor alone or by two members of the Council.~~

~~{Ord. 730 § 2, 1999}~~

2.04.030 Notice for call of special meetings.

~~The call for all special meetings shall state the object and purposes of such meetings, and no other business shall be transacted at such meetings.~~

~~{Ord. 730 § 3, 1999}~~

CHAPTER 2.12 OATH OF OFFICE

2.12.010 Oath of office.

~~Each officer and employee of the City shall take and subscribe before some person authorized to administer oaths an oath substantially in the following form:~~

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I do solemnly swear that I will support the Constitution of the United States of America and the Constitution and the Laws of the State of Idaho; that I will faithfully and impartially discharge the duties of the office of (or the position of) the City of Ketchum, Idaho according to the best of my ability. So help me God.

[Ord. 23 § 1, 1956, 2000 Code]

2-12-020 Take oath and filing same before performance of duties.

The oath must be taken and subscribed by each officer and employee before he or she shall enter upon the performance of his or her duties, and the oath, after it is taken and subscribed, shall be filed with the City Clerk and kept as an official record of the City of Ketchum, Idaho.

[Ord. 23 § 2, 1956, 2000 Code]

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CHAPTER 2-16 BONDS

2-16-010 Bonds for officers and employees.

Before entering upon the performance of his or her duties, any employee of the city may be required by the City Council to enter into, execute and file with the City Clerk a good and sufficient bond signed also by a surety or sureties approved by the City Council and conditioned for the faithful and honest performance of the duties of the office or position he or she wants, and the delivery to the City of such money or property as shall come into his or her keeping, which bond shall be in such sum as may be fixed by the City Council and shall be made payable to the City of Ketchum, Idaho; provided, however, that an increase in the amount of any such bond may be required at any time by the City Council.

[Ord. 23 § 3, 1956]

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CHAPTER 2-20 OFFICERS' SALARIES

Commented [LE13]: Moved to 2.01.050. No changes.

2-20-010 Mayor and Council; compensation.

Commencing January 1, 2008, the compensation of the Mayor and of the members of the City Council shall be as follows:

- A. The Mayor shall receive a monthly salary in the sum of \$3,000.00. Furthermore, beginning January 1, 2009, and continuing each January thereafter, the Mayor shall receive a cost of living adjustment (COLA) to such salary in the same amount afforded to City of Ketchum employees. The Mayor shall also receive health benefits, dental benefits, vision benefits, long term disability benefits and healthcare reimbursement account benefits in the same amount afforded to City of Ketchum employees. The Mayor shall also receive Idaho PERSI retirement benefits in the same amount afforded to City of Ketchum employees as prescribed by Idaho Code section 59-1322. If such benefits are declined by the Mayor, a monthly payment shall be made compensating the Mayor for benefits in an amount not to exceed the value of the benefits; and
- B. Each member of the Council shall receive a monthly salary in the sum of \$1,666.67. Furthermore, beginning January 1, 2009, and continuing each January thereafter, each member of the Council shall receive a cost of living adjustment (COLA) to such salary in the same amount afforded to City of Ketchum employees. Each member of the Council shall also receive health benefits, dental benefits,

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vision benefits, long term disability benefits and healthcare reimbursement account benefits in the same amount afforded to City of Ketchum employees. Each member of the Council shall also receive Idaho PERSI retirement benefits in the same amount afforded to City of Ketchum employees as prescribed by Idaho Code section 59-1322. If such benefits are declined by a member of the Council, a monthly payment shall be made compensating such member of the Council for benefits in an amount not to exceed the value of the benefits.

C. No other compensation shall be afforded to the Mayor or Council Members.

{Ord. 1023 § 1, 2007}

CHAPTER 2.24. PEACE OFFICER TRAINING

Commented [LE14]: Delete. Not relevant.

2.24.010 Peace officer training.

A. The City of Ketchum, Idaho, declares that it desires to qualify to receive aid for police training from the Law Enforcement Planning Commission under Idaho Code section 19-5110; and

B. Pursuant to Idaho Code section 19-5109, the City, while receiving aid from the Law Enforcement Planning Commission pursuant to such section, will adhere to the standards for employment and training established by the Idaho Peace Officer Standards and Training Advisory Council.

{Ord. 170 §§ 1, 2, 1974; Ord. 784 §§ 1, 2, 1999}

CHAPTER 2.28. ELECTIONS

Commented [LE15]: Delete. Governed by County.

2.28.010 Polling places.

The polls for all general and special elections shall be opened from 8:00 a.m. and remain open until all registered electors of that precinct have voted or until 8:00 p.m., whichever comes first.

{Ord. 590 § 1, 1992}

TITLE 3 REVENUE AND FINANCE

CHAPTER 3.04 LOCAL IMPROVEMENT GUARANTEE FUND

3.04.010 Special fund created.

There is created in the City of Ketchum, County of Blaine, State of Idaho, a special fund known and designated as local improvement guarantee fund of the City of Ketchum, Idaho.

(Ord. 157 § 1, 1970)

3.04.020 Purpose.

The fund is created for the purpose of guaranteeing to the extent of the fund the payment of bonds or warrants, or both, and interest, hereafter issued in connection with any local improvement district in the City for the payment of improvements in the City.

(Ord. 157 § 2, 1970)

3.04.030 Annual levy.

In order to provide money for the fund and for the use and purposes of the fund, the Mayor and Council of the City shall levy an annual tax not to exceed two-hundredths percent per year of the market value for assessment purposes on all of the taxable property in the City; provided, however, that the City may reduce the amount of the levy if the City appropriates from other proper sources, as may be determined by the City, a sum approximately equal in amount to the sum which it is estimated will be not collected but would have been collected except for the reduction of the levy; and provided further, that the total sum so levied and/or appropriated in any year shall not be more than sufficient to pay the outstanding warrants on the fund and to establish a balance in the fund, which combined levy and appropriations in any one year shall not exceed five percent of the outstanding obligations guaranteed by the fund; and provided further, that the City shall not levy any tax as provided in this section when the amount of monies in the local improvement guarantee fund equals ten percent of the total outstanding obligations to be guaranteed. The tax levies authorized in this section and collected shall be additional to and, if need be, in excess of, any and all statutory and charter limitations.

(Ord. 157 § 3, 1970; Ord. 783 § 1, 1999)

3.04.040 Method of payment.

Hereafter, when any bond, warrant or coupon drawn against local improvement fund is presented to the City for payment, and there is not a sufficient amount in the local improvement fund against which to draw to pay the same, unless otherwise requested by the holder, payment therefor shall be made by warrant drawn against the local improvement guarantee fund. Such warrants, when presented to the City Treasurer for payment, if not paid, shall be registered and shall draw interest at a rate not to exceed six percent per annum as may be fixed by the

TITLE 3 REVENUE AND FINANCE ADMINISTRATION OF LOCAL OPTION TAX

CHAPTER 3.04 LOCAL IMPROVEMENT GUARANTEE FUND

Commented [LE1]: DELETE - City does not have this fund

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City Council. Neither the holder nor the owner of any bond or warrant hereafter issued in any local improvement district shall have any claim therefor except for the payment from the special assessment made for the improvement for which the bond or warrant was issued and except against the local improvement guarantee fund provided by this chapter. The City shall not be liable to any holder or owner of the bond or warrant for any loss to the guarantee fund occurring in the lawful operation of the fund by the City.

(Ord. 157 § 4, 1970)

3.04.050 Subrogation of City.

Whenever there shall be paid out of the local improvement guarantee fund any sum on account of principal or interest of a local improvement bond or warrant, the City, as trustee for the fund, shall be subrogated to all of the rights of the holders or owners of the bonds or interest coupons or warrants so paid, and the policies or the assessment underlying the same, and all become part of the guarantee fund. There shall be paid into the guarantee fund any surplus remaining in any local improvement fund after the payment of all outstanding bonds or warrants payable out of such local improvement fund. Bonds or warrants guaranteed by such fund shall have no preference except in the order of presentation for payment.

(Ord. 157 § 5, 1970)

3.04.060 Delinquency certificates; redeeming property.

Hereafter, all monies derived from the assignment of delinquency certificates, redemption, sale of property under foreclosure for delinquent local improvement assessments or from the rent or sale of property, title to which has been obtained by the City pursuant to Idaho Code chapter 17 of title 50, and all other laws amendatory and supplemental thereto, shall be paid into the local improvement guarantee fund, and all delinquency certificates issued and such property acquired shall be held by the City for the benefit of such guarantee fund. Money from the guarantee fund may be used to redeem property subject to local improvement assessments from general tax delinquencies, underlying bonds or warrants guaranteed by the fund, or to purchase such property at county tax sales, or otherwise, from the county for the purpose of protecting the guarantee fund. After so acquiring title to real property, the City may lease or sell and convey the same for such price and on such terms as may be determined by the Council, and any provisions of law, charter or ordinance to the contrary notwithstanding, and all proceeds shall belong to and be paid into the guarantee fund; provided, however, that in any event the City purchases such property at a tax sale, or otherwise, it shall not be sold for a lesser sum than the City paid.

(Ord. 157 § 6, 1970)

3.04.070 Fund shortfalls.

Whenever there is not a sufficient amount of cash in such local improvement guarantee fund at any time to pay any and all warrants, together with interest, drawn against such fund, the City Council may replenish such local improvement guarantee fund by transferring or appropriating to it monies from the general fund of the City or other available sources, as may be determined by such Council, subject, however, to the limitations prescribed in this chapter. Warrants drawing interest as provided in this chapter may be issued against such local improvement guarantee fund to meet any financial liability against it, but at the time of making its next annual tax levy, the City shall provide for the levy of a sum sufficient with other resources of the guarantee fund to pay warrants so issued and outstanding, the tax for this purpose not to exceed one mill in any one year.

(Ord. 157 § 7, 1970)

~~City Council. Neither the holder nor the owner of any bond or warrant hereafter issued in any local improvement district shall have any claim therefor except for the payment from the special assessment made for the improvement for which the bond or warrant was issued and except against the local improvement guarantee fund provided by this chapter. The City shall not be liable to any holder or owner of the bond or warrant for any loss to the guarantee fund occurring in the lawful operation of the fund by the City.~~

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~~(Ord. 157 § 7, 1970)~~

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3.04.080 Claims against City.

The holder or owner of any local improvement bond or warrant issued hereafter shall have no claim against the City, except to the extent of the funds created and received by assessments against the property within any local improvement district and to the extent of his or her pro rata share of the local improvement guarantee fund, authorized and issued under the provisions of this chapter.

(Ord. 157 § 8, 1970)

3.04.090 Excess funds.

If at any time the local improvement guarantee fund exceeds, in amount of monies held, ten percent of the total outstanding obligations guaranteed, then the City Council may, by ordinance, authorize the Treasurer or appropriate official of the City to return and pay such excess or any part to the general fund of the City, to return and pay such excess or any designated part all or any part of local improvement district bonds of the municipality then issued and outstanding or to be issued. The passage of such ordinance shall require the affirmative vote of at least three-fourths of the full Council.

(Ord. 157 § 9, 1970)

3.04.100 Termination of local improvement guarantee funds.

At such time, and not before, when all bonds and coupons of all local improvement districts in the City shall have been paid in full, the Mayor and Council may provide by ordinance that the amounts and all property rights in such local improvement guarantee fund shall revert to the general fund of the City of Ketchum, Idaho, and such local improvement guarantee fund shall terminate and be nonexistent.

(Ord. 157 § 10, 1970)

3.04.110 Bonds irrevocable.

After the bonds of any local improvement district for the City of Ketchum, Idaho, have been issued, this chapter shall constitute a contract by the City and holder or holders of such bonds and shall be and remain irrevocable until such bonds and the interest accruing shall have been fully paid, satisfied and discharged.

(Ord. 157 § 11, 1970)

CHAPTER 3.08 SALE OF UNCLAIMED PROPERTY

3.08.010 Unclaimed property.

- A. *Deposit with Police Department; time constraints.* All lost or abandoned property found upon property belonging to the City shall be deposited with and transferred to the custodial possession of the Police Department. Further, any property that has been abandoned or impounded, which has come into possession or custody of the City Police Department or taken into its custody by legal process which, after due process, remains unclaimed, shall become the property of the City for a period of six months. Upon the expiration of six months, such property shall be subject to sale by the Police Department in accordance with the procedures set forth in this chapter.

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- B. *Exceptions.* Bicycles need only be unclaimed or unredeemed by the owner for a minimum time of 90 days, and personal property with a fair market value of less than \$25.00 need only be unclaimed or unredeemed by the owner for a minimum time of 30 days before sale by the City Police Department.

(Ord. 818 § 1, 1999)

3.08.020 Notice of sale.

Before the sale of property which is subject to this chapter, notice must be given by posting a similar notice in three public places in the City where the sale is to take place for not less than five nor more than ten days before the date and time set for the sale or by publishing a copy at least one week, and not more than two consecutive weeks, in a newspaper published in the county. In the cases of perishable property or real property, the notice requirements pursuant to Idaho Code section 11-302 shall be followed. Whenever the City Police Department has knowledge of the name and address of the owner, a copy of the notice of sale shall be mailed to such owner, with postage prepaid, at least five days prior to the sale.

(Ord. 818 § 2, 1999)

3.08.030 Sale.

All sales of property under this chapter must be made at auction, to the highest bidder, between the hours of 9:00 a.m. and 5:00 p.m. When the sale is of personal property capable of manual delivery, it must be within view of those who attend the sale. In the case of real property, the procedures pursuant to Idaho Code section 11-304 shall be followed. Neither the officer holding the auction nor his or her deputy can become a purchaser or be interested in any purchase at such sale.

(Ord. 818 § 3, 1999)

3.08.040 Disposition of funds from sale.

The proceeds of such sale shall be applied first to all costs assessed or incurred against the personal property so sold including any storage charges as keepers' fee and expenses of sale incurred by the City Police Department. The balance of such proceeds, if any, shall be kept by the City Police Department in a separate fund for a period of one year from the date of sale. Any person claiming title to or ownership of such proceeds by reason of ownership shall make written application to the City Police Department. Upon satisfactory proof of such title or ownership furnished within one year, such proceeds shall be delivered to the claimant. If no claim is made before the expiration of one year from the receipt of the proceeds, the same shall be paid by the City Police Department to the City Clerk who shall credit the same to the general fund, and no claim for such proceeds shall be considered.

(Ord. 818 § 4, 1999)

3.08.050 Disposal of firearms.

Any firearms that shall come into possession of the City under this chapter and held for a minimum time period of six months shall be disposed of by any of the following methods:

- A. Unusable or unsafe weapons may be scrapped by melting or other method of destruction.
- B. Sale to an authorized firearm dealer by sealed or open bids.
- C. Converted to public agency ownership for official law enforcement purposes.

~~B. *Exceptions.* Bicycles need only be unclaimed or unredeemed by the owner for a minimum time of 90 days, and personal property with a fair market value of less than \$25.00 need only be unclaimed or unredeemed by the owner for a minimum time of 30 days before sale by the City Police Department.~~

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(Ord. 818 § 5, 1999)

3.08.060 Public use of abandoned or unclaimed property.

Any property which is the subject of this chapter that has been held by the City for a minimum time period of six months may be put to a public use, rather than sold at public auction, provided:

- A. An actual or appraised value is determined for each item.
- B. Prior to such public use, the City Council must, by resolution, describe the property to be subject to public use, and specifically authorize the utilization of such property for such public use.
- C. Procedures and records are maintained as to location, use and final disposition of each item.

(Ord. 818 § 6, 1999)

CHAPTER 3.12 NONPROPERTY TAXES

3.12.010 Findings.

The City Council of the City finds that the City has a population not in excess of 10,000 according to the most recent census and is a City that derives the major portion of its economic well being from people catering to recreational needs and meeting needs of people traveling to the destination City for an extended period of time; that the City has a significant economic dependence upon visitors and travelers passing through or staying in the community and the City; and that the visitors and travelers require services of the City which place an undue burden upon the taxpayers of the City.

(Ord. 712 § 1, 1997)

3.12.020 Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section:

Hotel-motel: Means and includes any business including hotels, motels, condominiums, tourist homes, 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 residence is maintained continuously under terms of a lease or similar agreement for a period in excess of 30 days.

In the City of Ketchum: Within the municipal boundaries of the City of Ketchum, Blaine County, Idaho.

Liquor by the drink: Means and includes:

- A. Alcohol: The product of distillation of any fermented liquor, rectified either once or more often, whatever may be the origin, or synthetic ethyl alcohol.
- B. Spirits: Any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, gin, and whiskey.
- C. Wine: Any alcohol 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: Any alcohol beverage obtained from the fermentation of sugar, barley, hops, malt, yeast and similar ingredients.

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(Supp. No. 6)

(Ord. 818 § 5, 1999)

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(Ord. 818 § 6, 1999)

Commented [LE2]: DELETE - Governed by State code

CHAPTER 3.12 NONPROPERTY TAXES

3.12.010 Findings.

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- E. Other: Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible of being consumed by a human being, for beverage purposes.

Person: Means and includes any individual, firm, copartnership, 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.

Purchase: Means and includes any transfer, rental, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price is a purchase. A transfer for a consideration of any publication or of tangible personal property which has been produced, fabricated or printed to the special order of the customer is also a purchase.

Retail sale or sale at retail: A sale of tangible personal property for any purpose other than resale of that property in the regular course of business, or lease or rental of that property in the regular course of business, where such rental or lease is taxable under Idaho Code section 63-3612(h).

- A. All persons engaged in constructing, altering, repairing or improving real estate, which includes construction of prefabricated buildings as defined in Idaho Code section 63-3606A, are consumers of the material used by them; all sales to or use by such persons of tangible personal property are taxable whether or not such persons intend resale of the improved property.
- B. The delivery in this state of tangible personal property by an owner or former owner or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not engaged in business in this state, is a retail sale in this state by the person making the delivery. He or she shall include the retail selling price of the property in his or her total sales subject to tax under this chapter.
- C. For the purposes of this chapter as enacted, the sale or purchase of a prefabricated building is deemed a sale or purchase of real property and not a sale or purchase of tangible personal property.

Retailer: Means and includes:

- A. Every seller who makes any retail sale or sales of tangible personal property and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.
- B. Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.
- C. Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself or herself out as engaging in the business of selling such tangible personal property at retail.
- D. When the City Clerk determines that it is necessary for the efficient administration of this chapter to regard any salespeople, representatives, peddlers or canvassers as agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the City Clerk may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for the purpose of this chapter.
- E. Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

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- C. Every person making more than two retail sales of tangible personal property during any 12-month period, including sales made in the capacity of assignee for the benefit of creditors, or receiver or trustee in bankruptcy, or every person making fewer sales who holds himself or herself out as engaging in the business of selling such tangible personal property at retail.
- D. When the City Clerk/Treasurer determines that it is necessary for the efficient administration of this chapter to regard any salespeople, representatives, peddlers or canvassers as agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the City Clerk/Treasurer may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for the purpose of this chapter.
- E. Persons conducting both contracting and retailing activities. Such persons must keep separate accounts for the retail portion of their business and pay tax in the usual fashion on this portion.

Commented [LE3]: Changed all references from City Clerk/Treasurer to City Treasurer.

Room occupancy charge: Means and includes the total amount charged for the rental use or temporary occupancy of a room or living unit, valued in money, whether paid in money or otherwise, without any deduction.

Sale:

- A. Means and includes any transfer of title, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration and shall include any transfer of possession through incorporation or any other artifice found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, an exchange or barter.
- B. Sale also includes:
 - 1. Producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting;
 - 2. Furnishing, preparing or serving for a consideration food, meals or drinks;
 - 3. A transaction where the possession of property is transferred but the seller retains the title as security for the payment of the price;
 - 4. A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication;
 - 5. Admission charges;
 - 6. Receipts from the use of or the privilege of using tangible personal property or other facilities for recreational purposes;
 - 7. Providing hotel, motel, condominium, tourist home or trailer court accommodations and services, except where residence is maintained continuously under the terms of a lease or similar agreement for a period in excess of 30 days.

Sale of liquor by the drink: Means and includes the sale at retail of liquor by the drink for consumption on the premises, and includes any transfer of money, title, exchange, barter or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

Sales price:

- A. Means and includes the total amount for which tangible personal property, including services agreed to be rendered as a part of the sale, is sold, rented or leased, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:
 - 1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.
 - 2. The cost of materials used, labor or service cost, losses, or any other expense.
 - 3. The cost of transportation of the property prior to its sale.
- B. The term "sales price" does not include any of the following:
 - 1. Discounts allowed and taken on sales, but only to the extent that such discounts represent price adjustments as opposed to cash discounts offered only as an inducement for prompt payment.

Room occupancy charge: Means and includes the total amount charged for the rental use or temporary occupancy of a room or living unit, valued in money, whether paid in money or otherwise, without any deduction.

Sale:

- A. Means and includes any transfer of title, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration and shall include any transfer of possession through incorporation or any other artifice found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, an exchange or barter.
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 - 2. Furnishing, preparing or serving for a consideration food, meals or drinks;
 - 3. A transaction where the possession of property is transferred but the seller retains the title as security for the payment of the price;
 - 4. A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated or printed to the special order of the customer, or of any publication;
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 - 1. The cost of the property sold. However, in accordance with such rules and regulations as the state tax commission may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale or rental, has reimbursed his or her vendor for tax which the vendor is required to pay to the state or has paid the use tax with respect to the property, and has resold or rented the property prior to making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his or her vendor with respect to the sale of the property.
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2. Any sums allowed on merchandise accepted in part payment of other merchandise.
3. The amount charged for property returned by customers when the amount charged therefor is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.
4. The amount charged for labor or services rendered in installing or applying the property sold; provided, that the amount is stated separately, and such separate statement is not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.
5. The amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.
6. The amount charged for finance charges, carrying charges, service charges, time-price differential, or interest on deferred payment sales, provided such charges are not used as a means of avoiding imposition of this tax upon the actual sales price of the tangible personal property.
7. Charges for transportation of tangible personal property after sale.

Sales tax act: The Idaho Sales Tax Act, Idaho Code section 63-3601 et seq., including subsequent amendments, which is adopted by reference.

Seller: Every person making sales at retail or retail sales to a buyer or consumer, whether as agent, broker or principal.

Tangible personal property: Personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses.

Taxpayer: Any person subject to or liable for any taxes imposed by this chapter.

(Ord. 712 § 2, 1997)

3.12.030 Imposition and rate of certain nonproperty sales taxes.

The City imposes and shall collect certain nonproperty taxes, as follows:

- A. A municipal sales tax is imposed upon each sale at retail within the City of Ketchum, Idaho, at the rate of two percent of the sales price of all property subject to taxation under Idaho Code section 63-3601 et seq., Idaho Sales Tax Act, including subsequent amendments, except on the sale of "groceries" (defined in this section) and motor vehicles which are titled by the Idaho Department of Motor Vehicles. For the purpose of this chapter, "groceries" means any edible food or foodstuffs intended for human consumption, except:
 - (1) Alcoholic beverages;
 - (2) Tobacco; and
 - (3) Any food product which is prepared and sold for consumption at any "eating place" as defined in Idaho Code section 39-1702; or
 - (4) Any sandwiches and foods prepared and sold by retailer for immediate human consumption; or
 - (5) Any food product sold through a vending machine if the sales price is more than \$0.15;

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- B. An additional one percent hotel-motel room occupancy sales tax on receipts from all short term rental (30 days or less) charges for hotel rooms, motel rooms, condominium units, tourist homes and the like;
- C. An additional one percent liquor by the drink sales tax on all sales at retail of liquor by the drink including liquor, beer, wine and all other alcoholic beverages, for consumption on the premises;
- D. When the sales price involves a fraction of a dollar, such nonproperty taxes shall be collected on that fractional portion of the price by adding the tax based upon a bracket system. The bracket system for the collection of the two percent nonproperty tax shall be as set forth in exhibit A¹, attached to the ordinance codified herein and made a part of this section by reference. The bracket system for the collection of the three percent nonproperty tax shall be as set forth in exhibit B², attached to the ordinance codified herein and made a part of this section. The retailer shall calculate the tax upon the entire amount of purchases of the consumer made at a particular time subject to this chapter, and not separately upon each item purchased. The retailer may retain any amount collected under such bracket system which is in excess of the amount of tax for which he or she is liable to the City during the period as compensation for the work of collecting such tax;
- E. All monies collected and/or retained under the provisions of this chapter shall be held in trust for the City and for payment to the City Clerk in the manner and at the times provided in this chapter.

(Ord. 1108, 2013)

3.12.040 Duration of taxes.

The nonproperty sales taxes authorized and collected under this chapter are hereby imposed for a duration of 15 years from the effective date hereof, which provides for the collection of local option taxes through December 31, 2027.

The duration for the imposition and collection to raise the current rates an additional one percent for five years from the effective date of January 1, 2019.

(Ord. 1108, 2013; Ord. 1166, 2017)

3.12.050 Purposes for which the revenues derived from nonproperty taxes shall be used.

The nonproperty tax revenue derived from and collected under this chapter shall be used for the following purposes:

- A. Municipal transportation.
- B. Open space acquisition and recreation.
- C. Capital improvements: roads, water, sewer, parking, Ore Wagon Museum.
- D. Emergency services: police, fire, ambulance.
- E. City promotion, visitor information and special events.
- F. Property tax relief.
- G. Direct costs to collect and enforce the tax.

¹Editor's note(s)—Exhibits may be inspected at the Ketchum City Clerk's Office.

²Editor's note(s)—Exhibits may be inspected at the Ketchum City Clerk's Office.

- B. An additional one percent hotel-motel room occupancy sales tax on receipts from all short term rental (30 days or less) charges for hotel rooms, motel rooms, condominium units, tourist homes and the like;
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Commented [LE4]: City does not hold these funds in trust.

H. Maintaining and increasing air service to Friedman Memorial Airport.
(Ord. 1108, 2013)

3.12.060 Creation of a property tax relief fund.

There is 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 chapter, 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 fund shall be used to replace City property taxes in the ensuing fiscal year.

(Ord. 1108, 2013)

3.12.070 Authorization for City Clerk to administer, regulate and collect nonproperty taxes.

The City Clerk of the City is authorized and empowered to administer, regulate and collect payment of all nonproperty taxes adopted and imposed by this chapter. The Clerk shall have all of the powers set forth in this chapter, together with those additional powers necessary and proper to carry out the provisions of this chapter.

(Ord. 712 § 7, 1997)

3.12.080 Permits required and issuance of permits.

- A. Every person desiring to engage in or conduct business of retail sales, and/or renting a hotel-motel room, and/or selling liquor by the drink within the City shall file with the City Clerk an application for a municipal nonproperty sales tax permit for each place of business. A separate permit is required for each place of business within the City. Every application for 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 businesses, and such other information as the City may require. The application shall be signed by the owner, if he or she is a natural person; or in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application.
- B. Upon filing an application meeting the requirements set out in subsection A of this section, 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 in whose name it is issued and for the transaction of business at the place designated. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a permit may be subject to additional requirements as set forth in this chapter.
- C. On the face of the permit shall be fixed a municipal nonproperty tax number which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the nonproperty tax imposed under this chapter.

(Ord. 712 § 8, 1997)

3.12.090 Method for payment of taxes.

- A. The taxes imposed by this chapter shall be computed and paid for each calendar month. Such taxes are due and payable to the City Clerk on or before the twentieth day of the succeeding month. The amount of tax paid shall be computed on all sales subject to taxation under this chapter. Each person required to hold a municipal nonproperty sales tax permit and number shall file a municipal nonproperty sales tax return and a

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H. Maintaining and increasing air service to Friedman Memorial Airport.
(Ord. 1108, 2013)

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There is created in the Office of the City Clerk-Treasurer a fund to be designated as the municipal property tax relief fund. All monies collected under this chapter, and not otherwise budgeted by the City Council, shall be placed by the City Clerk-Treasurer into the municipal property tax relief fund. All monies collected and placed into the fund shall be used to replace City property taxes in the ensuing fiscal year.

(Ord. 1108, 2013)

3.12.070 Authorization for City Clerk-Treasurer to administer, regulate and collect nonproperty taxes.

The City Clerk-Treasurer of the City is authorized and empowered to administer, regulate and collect payment of all nonproperty taxes adopted and imposed by this chapter. The Clerk-Treasurer shall have all of the powers set forth in this chapter, together with those additional powers necessary and proper to carry out the provisions of this chapter.

(Ord. 712 § 7, 1997)

3.12.080 Permits required and issuance of permits.

- A. Every person desiring to engage in or conduct business of retail sales, and/or renting a hotel-motel room, and/or selling liquor by the drink within the City shall file with the City Clerk-Treasurer an application for a municipal nonproperty sales tax permit for each place of business. A separate permit is required for each place of business within the City. Every application for a permit shall be made upon a form prescribed by the City Clerk-Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of businesses, and such other information as the City may require. The application shall be signed by the owner, if he or she is a natural person; or in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application.
- B. Upon filing an application meeting the requirements set out in subsection A of this section, the City Clerk-Treasurer 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 in whose name it is issued and for the transaction of business at the place designated. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a permit may be subject to additional requirements as set forth in this chapter.
- C. On the face of the permit shall be fixed a municipal nonproperty tax number which shall be used by the applicant as an identifying number on all filing, payment and correspondence with regard to the nonproperty tax imposed under this chapter.

(Ord. 712 § 8, 1997)

3.12.090 Method for payment of taxes.

- A. The taxes imposed by this chapter shall be computed and paid for each calendar month. Such taxes are due and payable to the City Clerk-Treasurer on or before the twentieth day of the succeeding month. The amount

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copy of his or her Idaho State Sales Tax return for the month at the same time taxes are paid to the City Clerk, unless such 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 monthly returns shall notify the City Clerk in writing, and the City Clerk may require reporting of state tax returns over some other period.

- B. The first payment of taxes under this chapter shall be due and payable together on February 20, 1998, for that period beginning January 1, 1998, and ending January 31, 1998. Thereafter, all payments shall be made monthly.
- C. A municipal nonproperty sales tax return shall be filed each and every month by every person engaging in sales subject to taxation under this chapter regardless of whether or not any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.
- D. A valid sales tax exemption certificate issued by the Idaho State Tax Commission upon filing a copy with the City Clerk shall have the same effect to exempt the sale from the taxes imposed under this chapter as in the Idaho Sales Tax Act.

(Ord. 712 § 9, 1997)

3.12.100 Audits; deficiency determinations.

- A. The City Clerk may order an audit of any taxpayer under this chapter 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 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 said clerk's determination and the amount of deficiency, including interest, at the rate of 12 percent per annum 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 nonproperty tax permit application.

(Ord. 712 § 10, 1997)

3.12.110 Redetermination of deficiency.

- A. Any person against whom a deficiency determination is made under this chapter, or any person directly interested, may petition in writing for a redetermination within 30 days after service upon the person of notice of deficiency. If the petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.
- B. If a petition for redetermination is filed within the 30-day period, the City Clerk shall reconsider the determination and, if the person so requests in the petition, grant the person an oral hearing and give such person ten 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 such person's application for a nonproperty tax permit.

(Ord. 712 § 11, 1997)

of tax paid shall be computed on all sales subject to taxation under this chapter. Each person required to hold a municipal nonproperty sales tax permit and number shall file a municipal nonproperty sales tax return and a copy of his or her Idaho State Sales Tax return for the month at the same time taxes are paid to the City Clerk-Treasurer unless such 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 monthly returns shall notify the City Clerk-Treasurer in writing, and the City Clerk-Treasurer may require reporting of state tax returns over some other period.

- B. The first payment of taxes under this chapter shall be due and payable together on February 20, 1998, for that period beginning January 1, 1998, and ending January 31, 1998. Thereafter, all payments shall be made monthly.
- C. A municipal nonproperty sales tax return shall be filed each and every month by every person engaging in sales subject to taxation under this chapter regardless of whether or not any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.
- D. A valid sales tax exemption certificate issued by the Idaho State Tax Commission upon filing a copy with the City Clerk-Treasurer shall have the same effect to exempt the sale from the taxes imposed under this chapter as in the Idaho Sales Tax Act.

(Ord. 712 § 9, 1997)

3.12.100 Audits; deficiency determinations.

- A. The City Clerk-Treasurer may order an audit of any taxpayer under this chapter 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-Treasurer may compute and determine the amount of tax due upon the basis of facts obtained from such information within the Clerk-Treasurer'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-Treasurer 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-Treasurer's possession.
- C. The City Clerk-Treasurer shall give written notice of said clerk's-Treasurer's determination and the amount of deficiency, including interest, at the rate of 12 percent per annum 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-Treasurer in the nonproperty tax permit application.

(Ord. 712 § 10, 1997)

3.12.110 Redetermination of deficiency.

- A. Any person against whom a deficiency determination is made under this chapter, or any person directly interested, may petition in writing for a redetermination within 30 days after service upon the person of notice of deficiency. If the petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.
- B. If a petition for redetermination is filed within the 30-day period, the City Clerk-Treasurer shall reconsider the determination and, if the person so requests in the petition, grant the person an oral hearing and give such person ten 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-Treasurer in such person's application for a nonproperty tax permit.

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3.12.120 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 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 redetermination has been timely filed. No assessment of a deficiency in respect to the tax imposed by this chapter 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 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 the rate of 12 percent per annum from the date prescribed for payment of the tax.

(Ord. 712 § 12, 1997)

3.12.130 Collections and enforcement.

As soon as practical after monthly municipal nonproperty sales 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 liability of any person for any tax payable under this chapter, or the liability at law or in equity of any person in respect to any tax provided by this chapter or collecting any such liability, the City Clerk, or duly authorized deputy, 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, or deputy, at a time and place named in the Clerk's 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. 712 § 13, 1997)

3.12.140 Refunds; limitations and interest.

- A. If the City Clerk determines that any amount due under this chapter has been paid more than once or has been erroneously or illegally collected or computed, the City Clerk shall set forth that fact in the Clerk's records, and the excess amount paid or collected may be credited on any amount due or payable to the City Clerk for nonproperty taxes from that person, and any balance refunded to the person by whom it was paid or to his or her 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 is filed by the taxpayer.
- C. Interest shall be allowed on the amount of such credits or refunds at the rate of 12 percent per annum 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 with regard to claims against municipalities.

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(Ord. 712 § 11, 1997)

3.12.120 Appeals; interest on deficiency.

- A. When a redetermination is made, the City Clerk-Treasurer shall give notice to the taxpayer against whom the redetermination is made. Within 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-Treasurer'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-Treasurer unless a redetermination has been timely filed. No assessment of a deficiency in respect to the tax imposed by this chapter 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 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-Treasurer.
- 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-Treasurer and shall be collected as part of the tax at the rate of 12 percent per annum from the date prescribed for payment of the tax.

(Ord. 712 § 12, 1997)

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- A. If the City Clerk-Treasurer determines that any amount due under this chapter has been paid more than once or has been erroneously or illegally collected or computed, the City Clerk-Treasurer shall set forth that fact in the Clerk's-Treasurer's records, and the excess amount paid or collected may be credited on any amount due or payable to the City Clerk-Treasurer for nonproperty taxes from that person, and any balance refunded to the person by whom it was paid or to his or her 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 is filed by the taxpayer.
- C. Interest shall be allowed on the amount of such credits or refunds at the rate of 12 percent per annum from the date which such tax was paid.

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(Ord. 712 § 14, 1997)

3.12.150 Responsibility for payment of taxes.

Every person with a duty to account for or pay over any tax imposed by this chapter on behalf of a corporation, as an officer employee of the corporation, or on behalf of a partnership, as a member employee of the partnership, shall be personally liable for payment of such tax, plus penalties and interest.

(Ord. 712 § 15, 1997)

3.12.160 Period of limitation upon assessment and collection.

- A. The amount of taxes imposed under this chapter shall be assessed within three 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 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 30 days thereafter.
- B. In the case of taxes due during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within six months after written request therefor (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 years after the date of the discovery of the facts constituting the fraud.

(Ord. 712 § 16, 1997)

3.12.170 Successors' liability.

- A. If a vendor liable for any amount of tax under this chapter sells out his or her 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 chapter until such time as the vendor produces 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, he or she is personally liable for the payment of the amount required to be withheld by him or her.

(Ord. 712 § 17, 1997)

3.12.180 General administration by City Clerk.

- A. The City Clerk shall enforce the provisions of this chapter 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 taxpayers' books and records, and shall also employ such accountants, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this chapter and

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- D. Appeal from the City Clerk's **Treasurer** decision denying in part or in whole a claim for refund shall be made in accordance with the laws of the state with regard to claims against municipalities.

(Ord. 712 § 14, 1997)

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Every person with a duty to account for or pay over any tax imposed by this chapter on behalf of a corporation, as an officer employee of the corporation, or on behalf of a partnership, as a member employee of the partnership, shall be personally liable for payment of such tax, plus penalties and interest.

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- A. The amount of taxes imposed under this chapter shall be assessed within three 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 years after assessment. The running of limitations provided by this section shall be suspended for the period during which the City Clerk **Treasurer** 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 30 days thereafter.
- B. In the case of taxes due during the lifetime of a decedent, the tax shall be assessed, and any proceeding in court without assessment for the collection of such tax shall be begun, within six months after written request therefor (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 years after the date of the discovery of the facts constituting the fraud.

(Ord. 712 § 16, 1997)

3.12.170 Successors' liability.

- A. If a vendor liable for any amount of tax under this chapter sells out his or her business or stocks and goods, the vendee shall make an inquiry to the City Clerk **Treasurer** and withhold from the purchase price any amount of tax that may be due under this chapter until such time as the vendor produces 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, he or she is personally liable for the payment of the amount required to be withheld by him or her.

(Ord. 712 § 17, 1997)

3.12.180 General administration by City Clerk **Treasurer**.

- A. The City Clerk **Treasurer** shall enforce the provisions of this chapter and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The City Clerk **Treasurer** may employ qualified auditors for examination of taxpayers' books and records, and shall also employ such accountants,

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may delegate authority to its representatives to conduct hearings or perform other duties imposed by this chapter.

- B. Taxpayers in the City shall keep such records, receipts, invoices, and other pertinent papers as the City Clerk may require. Each such taxpayer who files tax payments required under this chapter shall keep all such records for not less than four 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 taxpayer or any person liable for any tax, 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 taxpayer 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 latter 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. 712 § 18, 1997)

3.12.190 Penalties.

- A. Any person who violates any provision of this chapter shall be guilty of a misdemeanor, punishable by up to one year in the county jail, and/or a \$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 chapter, shall be considered a separate offense.
- B. Any person who violates any provision of this chapter shall have his or her municipal nonproperty sales tax permit and tax number revoked. The City Clerk shall send written notice of revocation of such permit and tax number to the permit holder by mailing the same by certified mail to the address given on the permit application. The permit holder shall have ten days from the date such notice is mailed to file a written request of appeal with the City Council, challenging such revocation. If no appeal is timely made, such revocation becomes final. Whenever a person subject to this chapter has had such permit and tax number revoked, the City Clerk shall not reissue such permit nor issue a new permit to such person until such person places with the City Clerk a bond or other sufficient security in the amount equal to three times the actual, determined or estimated average monthly amount of tax payable by such person pursuant to this chapter.
- C. The City Clerk, whenever it is deemed necessary to ensure compliance with this chapter, may require any person subject to this chapter to place with it such security as it may determine. The amount of such security shall not be greater than three times the estimated average monthly amount payable by such person pursuant to this chapter. 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 chapter shall have all municipal nonproperty sales tax permits, 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 chapter for which a person fails to report or accurately compute shall become a lien upon the property of such taxpayer on the date that the same becomes due, and the City may seek to enforce such lien and collect all taxes and interest due, together with the reasonable costs of collection, including attorney fees, in a court of competent jurisdiction.
- F. For the purposes of proper administration of this chapter, and to prevent evasion of such nonproperty sales taxes, the burden of proving that a sale or rental is not a sale under this chapter is upon the person who makes the sale or rental in question.

investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this chapter and may delegate authority to its representatives to conduct hearings or perform other duties imposed by this chapter.

- B. Taxpayers in the City shall keep such records, receipts, invoices, and other pertinent papers as the City Clerk Treasurer may require. Each such taxpayer who files tax payments required under this chapter shall keep all such records for not less than four years after making such payments unless the City Clerk Treasurer in writing authorizes their destruction.
- C. The City Clerk Treasurer, or any person authorized in writing by the Clerk Treasurer, may examine the books, papers, records and equipment of any taxpayer or any person liable for any tax, 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 taxpayer whose pertinent records are kept outside of the City must bring the records to the City for examination by the City Clerk Treasurer upon request of the latter or, by agreement with the City Clerk Treasurer, permit an auditor designated by the City Clerk Treasurer to visit the place where the records are kept, and there audit such records.

(Ord. 712 § 18, 1997)

3.12.190 Penalties.

- A. Any person who violates any provision of this chapter shall be guilty of a misdemeanor, punishable by up to one year in the county jail, and/or a \$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 chapter, shall be considered a separate offense.
- B. Any person who violates any provision of this chapter shall have his or her municipal nonproperty sales tax permit and tax number revoked. The City Clerk Treasurer shall send written notice of revocation of such permit and tax number to the permit holder by mailing the same by certified mail to the address given on the permit application. The permit holder shall have ten days from the date such notice is mailed to file a written request of appeal with the City Council, challenging such revocation. If no appeal is timely made, such revocation becomes final. Whenever a person subject to this chapter has had such permit and tax number revoked, the City Clerk Treasurer shall not reissue such permit nor issue a new permit to such person until such person places with the City Clerk Treasurer a bond or other sufficient security in the amount equal to three times the actual, determined or estimated average monthly amount of tax payable by such person pursuant to this chapter.
- C. The City Clerk Treasurer, whenever it is deemed necessary to ensure compliance with this chapter, may require any person subject to this chapter to place with it such security as it may determine. The amount of such security shall not be greater than three times the estimated average monthly amount payable by such person pursuant to this chapter. The amount of the security may be increased or decreased by the City Clerk Treasurer at any time, subject to the limitations set forth above.
- D. Any person who violates any provision of this chapter shall have all municipal nonproperty sales tax permits, 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 chapter for which a person fails to report or accurately compute shall become a lien upon the property of such taxpayer on the date that the same becomes due, and the City may seek to enforce such lien and collect all taxes and interest due, together with the reasonable costs of collection, including attorney fees, in a court of competent jurisdiction.

(Ord. 712 § 19, 1997)

3.12.200 Penalty charges.

- A. Any person who is required to collect and pay over any tax imposed by this chapter and fails or refuses to pay over to the City the same when due, in accordance with section 3.12.090 of this chapter, shall be liable and pay a penalty charge **equal** to five percent of the tax not paid, or a minimum of \$10.00, whichever is greater. The City **Clerk** shall assess and collect such fee at the time any delinquent tax payment is tendered. The permit holder shall have ten days from the date payment is made to file a written appeal with the City Council challenging such penalty determination. If no appeal is timely made as provided in this chapter, such penalty determination shall be final.
- B. Any person who is required to collect, truthfully account for, and pay over any tax imposed by this chapter 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 shall, in addition to other penalties provided by law, be liable to a penalty equal to the amount of the tax evaded, or not collected, or not accounted for or 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 same by certified mail to the address given on the permit application. The permit holder shall have ten days from the date such notice is mailed to file a written request of appeal with the City Council challenging such penalty charge determination. If no appeal is timely made as provided in this chapter, such penalty charge determination shall be final.

(Ord. 712 § 20, 1997)

3.12.210 Exemptions.

All transactions by the state, otherwise subject to imposition of such taxes, are exempt from the provisions of this chapter.

(Ord. 712 § 21, 1997)

3.12.220 Confidentiality of information.

- A. No City **Clerk** of the City of Ketchum, Blaine County, Idaho, nor any duly authorized deputy City **Clerk**, agent or employee shall divulge or make known to any persons, in any manner, any information whatsoever submitted or obtained, directly or indirectly, pursuant to this chapter, or to permit any nonproperty tax return or information supplied with regard to such return, or any copy, or any paper or book so obtained, to be seen or examined by any person except as provided by law; provided, that in any action or proceeding brought for the collection, remission, cancellation or refund of the whole or any part of a tax imposed under this chapter, or for enforcing the penalties prescribed for making false or fraudulent returns, any and all information contained in or provided with such returns may be made accessible to the elected and appointed officials, officers and representatives of the City charged with enforcing or defending the same. All such returns, information, statements and correspondence relating to such returns may be produced into evidence in any action, civil or criminal, directly pertaining to such returns or the tax imposed on the basis of such returns.
- B. The Ketchum City Council, under such rules and provisions as it may prescribe, may permit, notwithstanding the provisions of this chapter as to secrecy, the commissioner of internal revenue of the United States or his or her delegate or the proper officer of any state imposing a tax to inspect the nonproperty tax returns or

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- F. For the purposes of proper administration of this chapter, and to prevent evasion of such nonproperty sales taxes, the burden of proving that a sale or rental is not a sale under this chapter is upon the person who makes the sale or rental in question.

(Ord. 712 § 19, 1997)

3.12.200 Penalty charges.

- A. Any person who is required to collect and pay over any tax imposed by this chapter and fails or refuses to pay over to the City the same when due, in accordance with section 3.12.090 of this chapter, shall be liable and pay a penalty charge **as provided in the City's adopted fee resolution, as amended from time to time, equal to five percent of the tax not paid, or a minimum of \$10.00, whichever is greater**. The City **Clerk/Treasurer** shall assess and collect such fee at the time any delinquent tax payment is tendered. The permit holder shall have ten days from the date payment is made to file a written appeal with the City Council challenging such penalty determination. If no appeal is timely made as provided in this chapter, such penalty determination shall be final.
- B. Any person who is required to collect, truthfully account for, and pay over any tax imposed by this chapter 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 shall, in addition to other penalties provided by law, be liable to a penalty equal to the amount of the tax evaded, or not collected, or not accounted for or paid over. The City **Clerk/Treasurer** shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the City **Clerk/Treasurer**. The City **Clerk/Treasurer** shall send written notice of such penalty charge to the permit holder by mailing the same by certified mail to the address given on the permit application. The permit holder shall have ten days from the date such notice is mailed to file a written request of appeal with the City Council challenging such penalty charge determination. If no appeal is timely made as provided in this chapter, such penalty charge determination shall be final.

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(Ord. 712 § 21, 1997)

3.12.220 Confidentiality of information.

- A. No City **Clerk/Treasurer** of the City of Ketchum, Blaine County, Idaho, nor any duly authorized deputy City **Clerk/Treasurer**, agent or employee shall divulge or make known to any persons, in any manner, any information whatsoever submitted or obtained, directly or indirectly, pursuant to this chapter, or to permit any nonproperty tax return or information supplied with regard to such return, or any copy, or any paper or book so obtained, to be seen or examined by any person except as provided by law; provided, that in any action or proceeding brought for the collection, remission, cancellation or refund of the whole or any part of a tax imposed under this chapter, or for enforcing the penalties prescribed for making false or fraudulent returns, any and all information contained in or provided with such returns may be made accessible to the elected and appointed officials, officers and representatives of the City charged with enforcing or defending the same. All such returns, information, statements and correspondence relating to such returns may be

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information provided or obtained in connection with such returns, or may furnish to such officer, or his or her authorized agent, copies or an abstract.

- C. Nothing in this chapter shall prohibit a taxpayer, or authorized representative upon proper identification, from inspecting and copying his or her own nonproperty tax returns and information supplied with such returns.

(Ord. 712 § 22, 1997)

CHAPTER 3.15 WASTEWATER REVENUE BOND

3.15.010 Definitions.

As used in this chapter, the following definitions shall apply unless a different meaning clearly appears from the context:

Acquisition or acquire includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, or grant from the Federal government, the State of Idaho, or any public body therein or any person, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

Adjusted net revenues means the net revenues, adjusted for purposes of section 3.15.140.C.2 as provided in section 3.15.140.E.

Annual debt service means in any fiscal year the amount of principal and interest required to be paid in that fiscal year on all outstanding bonds, adjusted as follows:

- A. Interest which is to be paid from proceeds of bonds shall be subtracted;
- B. Bonds which are subject to scheduled, noncontingent redemption/prepayment or tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption/prepayment or tender, and only the amount scheduled to be outstanding on the final maturity date shall be treated as maturing on that date;
- C. Interest subsidies shall be subtracted from the interest due on interest subsidy bonds as provided in section 3.15.150;
- D. Bonds which are subject to contingent redemption/prepayment or tender shall be treated as maturing on their stated maturity dates; and
- E. Each balloon payment shall be assumed to be paid according to its balloon debt service requirement.

Balloon debt service requirement means the committed debt service requirement for a balloon payment or, if the City has not entered into a firm commitment to sell bonds or other obligations to refund that balloon payment, the estimated debt service requirement for that balloon payment.

Balloon payment means any principal payment for a series of bonds which comprises more than 25 percent of the original principal amount of that series, but only if that principal payment is designated as a balloon payment in the closing documents for the series.

Base period means the alternative selected by the City from the following two options: (a) any 12 consecutive months selected by the City or qualified consultant out of the most recent 18 months preceding the delivery of a Series of parity bonds; or (b) the most recently completed fiscal year for which audited financial statements are available.

produced into evidence in any action, civil or criminal, directly pertaining to such returns or the tax imposed on the basis of such returns.

- B. The Ketchum City Council, under such rules and provisions as it may prescribe, may permit, notwithstanding the provisions of this chapter as to secrecy, the commissioner of internal revenue of the United States or his or her delegate or the proper officer of any state imposing a tax to inspect the nonproperty tax returns or information provided or obtained in connection with such returns, or may furnish to such officer, or his or her authorized agent, copies or an abstract.
- C. Nothing in this chapter shall prohibit a taxpayer, or authorized representative upon proper identification, from inspecting and copying his or her own nonproperty tax returns and information supplied with such returns.

(Ord. 712 § 22, 1997)

CHAPTER 3.15 WASTEWATER REVENUE BOND

Commented [L5]: DELETE - All covered in bond policies

3.15.010 Definitions.

As used in this chapter, the following definitions shall apply unless a different meaning clearly appears from the context:

Acquisition or acquire includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, or grant from the Federal government, the State of Idaho, or any public body therein or any person, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

Adjusted net revenues means the net revenues, adjusted for purposes of section 3.15.140.C.2 as provided in section 3.15.140.E.

Annual debt service means in any fiscal year the amount of principal and interest required to be paid in that fiscal year on all outstanding bonds, adjusted as follows:

- A. Interest which is to be paid from proceeds of bonds shall be subtracted;
- B. Bonds which are subject to scheduled, noncontingent redemption/prepayment or tender shall be deemed to mature on the dates and in the amounts which are subject to mandatory redemption/prepayment or tender, and only the amount scheduled to be outstanding on the final maturity date shall be treated as maturing on that date;
- C. Interest subsidies shall be subtracted from the interest due on interest subsidy bonds as provided in section 3.15.150;
- D. Bonds which are subject to contingent redemption/prepayment or tender shall be treated as maturing on their stated maturity dates; and
- E. Each balloon payment shall be assumed to be paid according to its balloon debt service requirement.

Balloon debt service requirement means the committed debt service requirement for a balloon payment or, if the City has not entered into a firm commitment to sell bonds or other obligations to refund that balloon payment, the estimated debt service requirement for that balloon payment.

Balloon payment means any principal payment for a series of bonds which comprises more than 25 percent of the original principal amount of that series, but only if that principal payment is designated as a balloon payment in the closing documents for the series.

Beneficial owner means any person that has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any bonds (including persons holding bonds through nominees, depositories or other intermediaries).

Bonding authority means the authority to issue revenue bonds or other obligations hereunder in the aggregate par amount of up to \$14,000,000.00, as authorized by the November 8, 2022, bond election, plus such additional authority to issue revenue bonds in excess of \$14,000,000.00, as authorized by (i) subsequent bond elections and/or (ii) judicial confirmation under Idaho Code, Title 7, Chapter 13; and pursuant to the Act.

Bond fund means the "City of Ketchum Wastewater Revenue Bond Fund," which includes a debt service account, and subaccounts thereunder, for the purpose of paying the principal of and interest due on bonds, as applicable.

Bond register means the registration records maintained by a bond registrar setting forth the names and addresses of registered owners of a series of bonds, in compliance with Section 149 of the Code.

Bond registrar means the person or qualified entity appointed by the City pursuant to section 3.15.030 hereof and a series ordinance for the purposes of registering and authenticating bonds, maintaining the related bond register, effecting transfer of ownership of the bonds, and paying interest on and principal of the bonds.

Bond or bonds means the initial bonds and parity bonds of the City authorized and issued under this chapter and any series ordinance; provided, however, "bond" or "bonds" shall not include subordinate obligations.

Bond year means each one-year period that ends on the date selected by the City. The first and last bond years may be shorter periods. If no day is selected by the City before the earlier of the final maturity date of the bonds or the date that is five years after the date of issuance of the bonds, bond years shall end on each anniversary of the date of issue and on the final maturity date of the bonds.

City means the City of Ketchum, Blaine County, Idaho, a body politic and corporate duly organized and existing under and by virtue of the Constitution and laws of the State of Idaho.

City Administrator means the City Administrator of the City or their successor in function, if any.

City Clerk or Clerk means the ex officio City Clerk of the City, or other officer of the City who is the custodian of the records of the proceedings of the City, or their successor in function, if any.

City Treasurer means the Treasurer of the City, or their successor in function, if any.

Code means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable regulations and revenue rulings issued with respect thereto by the Treasury Department or the Internal Revenue Service of the United States.

Committed debt service requirement means the schedule of principal and interest payments for a series of refunding bonds or other obligations which refund a balloon payment, as shown in the series ordinance and/or other documents evidencing the City's firm commitment to sell that series. A "firm commitment to sell" means a bond purchase agreement or similar document which obligates the City to sell, and obligates a purchaser to purchase, the series of refunding bonds or other obligations, subject only to the conditions which customarily are included in such documents.

Continuing disclosure agreement shall mean, with respect to each issue of bonds authorized hereunder and subject to Rule 15c2-12, the form of continuing disclosure undertaking by the issuer dated the date of issuance and delivery of the respective bonds, as originally executed and as may be amended from time to time in accordance with the terms hereof, if required by Rule 15c2-12.

Cost of acquisition and construction or any phrase of similar import, shall mean all or any part designated by the City of the costs of a project, or interest therein, which costs, at the option of the City, may include all or any part of the incidental costs pertaining to the acquisition of the project, including, without limitations:

Base period means the alternative selected by the City from the following two options: (a) any 12 consecutive months selected by the City or qualified consultant out of the most recent 18 months preceding the delivery of a series of parity bonds; or (b) the most recently completed fiscal year for which audited financial statements are available.

Beneficial owner means any person that has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any bonds (including persons holding bonds through nominees, depositories or other intermediaries).

Bonding authority means the authority to issue revenue bonds or other obligations hereunder in the aggregate par amount of up to \$14,000,000.00, as authorized by the November 8, 2022, bond election, plus such additional authority to issue revenue bonds in excess of \$14,000,000.00, as authorized by (i) subsequent bond elections and/or (ii) judicial confirmation under Idaho Code, Title 7, Chapter 13; and pursuant to the Act.

Bond fund means the "City of Ketchum Wastewater Revenue Bond Fund," which includes a debt service account, and subaccounts thereunder, for the purpose of paying the principal of and interest due on bonds, as applicable.

Bond register means the registration records maintained by a bond registrar setting forth the names and addresses of registered owners of a series of bonds, in compliance with Section 149 of the Code.

Bond registrar means the person or qualified entity appointed by the City pursuant to section 3.15.030 hereof and a series ordinance for the purposes of registering and authenticating bonds, maintaining the related bond register, effecting transfer of ownership of the bonds, and paying interest on and principal of the bonds.

Bond or bonds means the initial bonds and parity bonds of the City authorized and issued under this chapter and any series ordinance; provided, however, "bond" or "bonds" shall not include subordinate obligations.

Bond year means each one-year period that ends on the date selected by the City. The first and last bond years may be shorter periods. If no day is selected by the City before the earlier of the final maturity date of the bonds or the date that is five years after the date of issuance of the bonds, bond years shall end on each anniversary of the date of issue and on the final maturity date of the bonds.

City means the City of Ketchum, Blaine County, Idaho, a body politic and corporate duly organized and existing under and by virtue of the Constitution and laws of the State of Idaho.

City Administrator means the City Administrator of the City or their successor in function, if any.

City Clerk or Clerk means the ex officio City Clerk of the City, or other officer of the City who is the custodian of the records of the proceedings of the City, or their successor in function, if any.

City Treasurer means the Treasurer of the City, or their successor in function, if any.

Code means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable regulations and revenue rulings issued with respect thereto by the Treasury Department or the Internal Revenue Service of the United States.

Committed debt service requirement means the schedule of principal and interest payments for a series of refunding bonds or other obligations which refund a balloon payment, as shown in the series ordinance and/or other documents evidencing the City's firm commitment to sell that series. A "firm commitment to sell" means a bond purchase agreement or similar document which obligates the City to sell, and obligates a purchaser to purchase, the series of refunding bonds or other obligations, subject only to the conditions which customarily are included in such documents.

Continuing disclosure agreement shall mean, with respect to each issue of bonds authorized hereunder and subject to Rule 15c2-12, the form of continuing disclosure undertaking by the issuer dated the date of issuance and delivery of the respective bonds, as originally executed and as may be amended from time to time in accordance with the terms hereof, if required by Rule 15c2-12.

- A. Preliminary expenses advanced by the City from funds available for the use thereof, or advanced by the federal government, or from any other source, with approval of the City, or any combination thereof;
- B. The costs of making surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;
- C. The costs of appraising, printing, estimates, advice, services of engineers, architects, financial consultants, attorneys at law, clerical help, or other agents of employees;
- D. The costs of contingencies;
- E. The costs of any discount on bonds and of any of the costs of issuance of bonds payable from original issue premium;
- F. The costs of funding and short-term financing, revenue warrants, bond anticipation notes, or other temporary loans appertaining to the project, and of the incidental expenses incurred in connection with such loans;
- G. The acquisition and construction costs of any properties, rights, easements, or other interest in properties, or any licenses, privileges, agreements and franchises; and
- H. All other expenses necessary or desirable and appertaining to the project, as estimated or otherwise ascertained by the City.

Council means the City Council of the City, as the same shall be duly and regularly constituted from time to time.

Debt service account means an account or subaccounts of that name in the bond fund out of which the principal of and interest on any bonds shall be paid.

Designated representative means the Mayor, the City Administrator or any City employee designated by them.

DTC means the Depository Trust Company of New York, as depository for the bonds, or any successor or substitute depository for the bonds.

Engineer means an independent licensed professional engineer (or firm of licensed professional engineers) selected by the City and experienced and skilled in the design, construction and operation of wastewater or sewer systems of comparable size and character to the wastewater system.

Estimated debt service requirement means the schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds a balloon payment, that is prepared by City Administrator, City Treasurer, or their designee, and that meets the requirements of section 3.15.160.

Fiscal year means the year commencing October 1 and ending the following September 30, unless changed by the City.

Fitch means Fitch Ratings, Inc., its successors, and assigns, and, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Fitch shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Moody's) designated by the City.

Initial bonds means the first series of revenue bonds or other obligations issued by the City under this chapter and a series ordinance.

Interest subsidy bonds means bonds for which the City is eligible to receive federal interest rate subsidies that are similar to the interest subsidies that were available for Build America Bonds.

Letter of representations means the blanket issuer letter of representations from the City to DTC authorized under section 3.15.030 of this chapter to be executed and filed with DTC.

~~*Cost of acquisition and construction* or any phrase of similar import, shall mean all or any part designated by the City of the costs of a project, or interest therein, which costs, at the option of the City, may include all or any part of the incidental costs pertaining to the acquisition of the project, including, without limitations:~~

- ~~A. Preliminary expenses advanced by the City from funds available for the use thereof, or advanced by the federal government, or from any other source, with approval of the City, or any combination thereof;~~
- ~~B. The costs of making surveys, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;~~
- ~~C. The costs of appraising, printing, estimates, advice, services of engineers, architects, financial consultants, attorneys at law, clerical help, or other agents of employees;~~
- ~~D. The costs of contingencies;~~
- ~~E. The costs of any discount on bonds and of any of the costs of issuance of bonds payable from original issue premium;~~
- ~~F. The costs of funding and short-term financing, revenue warrants, bond anticipation notes, or other temporary loans appertaining to the project, and of the incidental expenses incurred in connection with such loans;~~
- ~~G. The acquisition and construction costs of any properties, rights, easements, or other interest in properties, or any licenses, privileges, agreements and franchises; and~~
- ~~H. All other expenses necessary or desirable and appertaining to the project, as estimated or otherwise ascertained by the City.~~

~~*Council* means the City Council of the City, as the same shall be duly and regularly constituted from time to time.~~

~~*Debt service account* means an account or subaccounts of that name in the bond fund out of which the principal of and interest on any bonds shall be paid.~~

~~*Designated representative* means the Mayor, the City Administrator or any City employee designated by them.~~

~~*DTC* means the Depository Trust Company of New York, as depository for the bonds, or any successor or substitute depository for the bonds.~~

~~*Engineer* means an independent licensed professional engineer (or firm of licensed professional engineers) selected by the City and experienced and skilled in the design, construction and operation of wastewater or sewer systems of comparable size and character to the wastewater system.~~

~~*Estimated debt service requirement* means the schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds a balloon payment, that is prepared by City Administrator, City Treasurer, or their designee, and that meets the requirements of section 3.15.160.~~

~~*Fiscal year* means the year commencing October 1 and ending the following September 30, unless changed by the City.~~

~~*Fitch* means Fitch Ratings, Inc., its successors, and assigns, and, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Fitch shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P or Moody's) designated by the City.~~

~~*Initial bonds* means the first series of revenue bonds or other obligations issued by the City under this chapter and a series ordinance.~~

Master ordinance means this Ordinance No. 1247 adopted by the Council on March 27, 2023.

Maximum annual debt service means, at the time of calculation, the maximum amount of annual debt service that will be payable in the current fiscal year or any future fiscal year on all bonds.

Mayor means the Mayor of the City, or any presiding officer or titular head of the City, or their successor in functions, if any.

Moody's means Moody's Investors Service, Inc., its successors, and assigns, and, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Moody's shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P and Fitch) designated by the City.

Net revenue(s) means, for any period, the Revenue of the Wastewater System after the deduction of Operation and Maintenance Expenses.

Operation and maintenance expenses means all costs incurred by the City and properly treated as expenses of operating, maintaining, and repairing the wastewater system under generally accepted accounting principles, whether paid or accrued, or of levying, collecting and otherwise administering the revenue of the wastewater system for the payment of the bonds, but shall not include any payment for debt service or deposits into a reserve account, depreciation or taxes levied or imposed by the City in lieu of taxes, or capital additions or capital replacements to the wastewater system, and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:

- A. Engineering, auditing, reporting, legal and other overhead expenses of the various City departments directly relating and reasonably allocable to the administration of the wastewater system;
- B. Fidelity bond and property and liability insurance premiums appertaining to the wastewater system, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;
- C. Payments to pension, retirement, health, and hospitalization funds and other insurance related to the operation of the wastewater system;
- D. Any taxes, assessments, excise taxes or other charges which may be lawfully imposed on the City, the wastewater system, revenues therefrom, or any privilege in connection with their operation;
- E. The reasonable charges of the fiscal or paying agent, bond registrar, commercial bank, trust bank or other depository bank appertaining to bonds or appertaining to a project, if any;
- F. Contractual services, professional services, salaries, other administrative expenses, the cost of materials, supplies, repairs and labor, appertaining to the issuance of bonds and to the wastewater system; and
- G. All other administrative, general and commercial expenses.

However, operation and maintenance expenses do not include:

- A. Any rebates or penalties paid from revenues under Section 148 of the Code;
- B. Payments of judgments or fines against the City and payments for the settlement of litigation;
- C. Depreciation and amortization of property values or losses, and other noncash expenses, including non-cash expenses related to pensions and postemployment benefits;
- D. All amounts eligible to be treated for accounting purposes as payments for capital expenditures;
- E. Interest and other debt service payments, paying agent fees, broker-dealer fees and similar charges for the maintenance of borrowings;
- F. The expenses of owning, operating or maintaining any separate utility system;

~~*Interest subsidy bonds* means bonds for which the City is eligible to receive federal interest rate subsidies that are similar to the interest subsidies that were available for Build America Bonds.~~

~~*Letter of representations* means the blanket issuer letter of representations from the City to DTC authorized under section 3-15.030 of this chapter to be executed and filed with DTC.~~

~~*Master ordinance* means this Ordinance No. 1247 adopted by the Council on March 27, 2023.~~

~~*Maximum annual debt service* means, at the time of calculation, the maximum amount of annual debt service that will be payable in the current fiscal year or any future fiscal year on all bonds.~~

~~*Mayor* means the Mayor of the City, or any presiding officer or titular head of the City, or their successor in functions, if any.~~

~~*Moody's* means Moody's Investors Service, Inc., its successors, and assigns, and, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, Moody's shall be deemed to refer to any other nationally recognized securities rating agency (other than S&P and Fitch) designated by the City.~~

~~*Net revenue(s)* means, for any period, the Revenue of the Wastewater System after the deduction of Operation and Maintenance Expenses.~~

~~*Operation and maintenance expenses* means all costs incurred by the City and properly treated as expenses of operating, maintaining, and repairing the wastewater system under generally accepted accounting principles, whether paid or accrued, or of levying, collecting and otherwise administering the revenue of the wastewater system for the payment of the bonds, but shall not include any payment for debt service or deposits into a reserve account, depreciation or taxes levied or imposed by the City in lieu of taxes, or capital additions or capital replacements to the wastewater system, and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:~~

- ~~A. Engineering, auditing, reporting, legal and other overhead expenses of the various City departments directly relating and reasonably allocable to the administration of the wastewater system;~~
- ~~B. Fidelity bond and property and liability insurance premiums appertaining to the wastewater system, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;~~
- ~~C. Payments to pension, retirement, health, and hospitalization funds and other insurance related to the operation of the wastewater system;~~
- ~~D. Any taxes, assessments, excise taxes or other charges which may be lawfully imposed on the City, the wastewater system, revenues therefrom, or any privilege in connection with their operation;~~
- ~~E. The reasonable charges of the fiscal or paying agent, bond registrar, commercial bank, trust bank or other depository bank appertaining to bonds or appertaining to a project, if any;~~
- ~~F. Contractual services, professional services, salaries, other administrative expenses, the cost of materials, supplies, repairs and labor, appertaining to the issuance of bonds and to the wastewater system; and~~
- ~~G. All other administrative, general and commercial expenses.~~

~~However, operation and maintenance expenses do not include:~~

- ~~A. Any rebates or penalties paid from revenues under Section 148 of the Code;~~
- ~~B. Payments of judgments or fines against the City and payments for the settlement of litigation;~~
- ~~C. Depreciation and amortization of property values or losses, and other noncash expenses, including non-cash expenses related to pensions and postemployment benefits;~~

- G. Expenditures made from any liability insurance proceeds;
- H. Expenditures made from any casualty insurance proceeds used to pay for costs of repairing or replacing portions of the wastewater system;
- I. Expenditures made from grant funds, regardless of whether such grant funds are dedicated to a specific purpose or available for the general operation, maintenance and repair or replacement of the wastewater system;
- J. Extraordinary, non-recurring expenses of the wastewater system; or
- K. Expenditures allocable to any other funding source which does not constitute revenues of the wastewater system.

Ordinance means this chapter and, when applicable, this chapter and any series ordinance.

Outstanding, when used with reference to a bond or bonds, as of any particular date, means all bonds which have been issued, executed, authenticated and delivered by the City, except (i) bonds cancelled because of payment or redemption prior to their stated dates of maturity, and (ii) any bond (or portion thereof) for the payment or redemption of which there has been separately set aside and held funds for the payment thereof, and when used in reference to a bond or bonds issued as zero coupon or capital appreciation bonds, the assumed par amount outstanding of such bond or bonds shall be its purchase price, plus the accrued interest earned by the owner of such bond or bonds as of the date of calculation.

Owner means a registered owner of a bond.

Parity bonds means the initial bonds and any obligation that is secured by the net revenues on an equal basis with the initial bonds and issued in accordance with section 3.15.140.

Permitted investments means such investments as shall be legal investment for funds under Idaho Code, section 50-1013, or comparable statute as then in effect.

Private person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company, or corporation.

Project means the undertaking or undertakings of acquiring and constructing improvements to the wastewater system.

Project fund means any fund created pursuant to section 3.15.080 hereunder or under any series ordinance and any subaccount thereunder into which shall be deposited proceeds of bonds to finance a project and costs of issuance thereof.

Qualified consultant means an independent engineer, an independent auditor, an independent financial advisor, or similar independent professional consultant of recognized standing and having experience and expertise in the area for which such person or firm is retained by the City for purposes of performing activities specified in this chapter or any series ordinance.

Qualified insurance means any municipal bond insurance policy or surety bond issued by any insurance company licensed to conduct an insurance business in any state of the United States (or by a service corporation acting on behalf of one or more such insurance companies) which insurance company or companies, as of the time of issuance of such policy or surety bond, are rated in one of the two highest rating categories by each rating agency rating such series of bonds.

Qualified letter of credit means any letter of credit issued by a financial institution for the account of the City, which institution maintains an office, agency, or branch in the United States and as of the time of issuance of such letter of credit is rated in one of the two highest rating categories by each rating agency rating such series of bonds.

- D. All amounts eligible to be treated for accounting purposes as payments for capital expenditures;
- E. Interest and other debt service payments, paying agent fees, broker-dealer fees and similar charges for the maintenance of borrowings;
- F. The expenses of owning, operating or maintaining any separate utility system;
- G. Expenditures made from any liability insurance proceeds;
- H. Expenditures made from any casualty insurance proceeds used to pay for costs of repairing or replacing portions of the wastewater system;
- I. Expenditures made from grant funds, regardless of whether such grant funds are dedicated to a specific purpose or available for the general operation, maintenance and repair or replacement of the wastewater system;
- J. Extraordinary, non-recurring expenses of the wastewater system; or
- K. Expenditures allocable to any other funding source which does not constitute revenues of the wastewater system.

Ordinance means this chapter and, when applicable, this chapter and any series ordinance.

Outstanding, when used with reference to a bond or bonds, as of any particular date, means all bonds which have been issued, executed, authenticated and delivered by the City, except (i) bonds cancelled because of payment or redemption prior to their stated dates of maturity, and (ii) any bond (or portion thereof) for the payment or redemption of which there has been separately set aside and held funds for the payment thereof, and when used in reference to a bond or bonds issued as zero coupon or capital appreciation bonds, the assumed par amount outstanding of such bond or bonds shall be its purchase price, plus the accrued interest earned by the owner of such bond or bonds as of the date of calculation.

Owner means a registered owner of a bond.

Parity bonds means the initial bonds and any obligation that is secured by the net revenues on an equal basis with the initial bonds and issued in accordance with section 3.15.140.

Permitted investments means such investments as shall be legal investment for funds under Idaho Code, section 50-1013, or comparable statute as then in effect.

Private person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company, or corporation.

Project means the undertaking or undertakings of acquiring and constructing improvements to the wastewater system.

Project fund means any fund created pursuant to section 3.15.080 hereunder or under any series ordinance and any subaccount thereunder into which shall be deposited proceeds of bonds to finance a project and costs of issuance thereof.

Qualified consultant means an independent engineer, an independent auditor, an independent financial advisor, or similar independent professional consultant of recognized standing and having experience and expertise in the area for which such person or firm is retained by the City for purposes of performing activities specified in this chapter or any series ordinance.

Qualified insurance means any municipal bond insurance policy or surety bond issued by any insurance company licensed to conduct an insurance business in any state of the United States (or by a service corporation acting on behalf of one or more such insurance companies) which insurance company or companies, as of the time of issuance of such policy or surety bond, are rated in one of the two highest rating categories by each rating agency rating such series of bonds.

Rate covenant means net revenues in each fiscal year at least equal to 125 percent of the annual debt service.

Rating agency means Moody's, S&P or Fitch.

Rebate fund means the fund so designated by the Council into which all excess earnings on funds and accounts held by the City hereunder to the extent required by any tax certificate of the City shall be deposited.

Record date, unless otherwise provided in a series ordinance, mean (a) in the case of each interest payment date, the close of business on the fifteenth day preceding the interest payment date; and, if not a business day of the bond registrar, the next preceding day that is a business day of the bond registrar, and (b) in the case of redemption, if applicable, such record date as shall be specified by the bond registrar in the notice of redemption, provided that such record date shall be not less than 15 calendar days before the mailing of such notice of redemption.

Refunding bonds means bonds issued hereunder to refund prior revenue bonds of the City on parity with the parity bonds used to finance and/or refinance improvements to the wastewater system.

Registered owner or registered owners mean the person or persons whose names and addresses shall appear on the bond register maintained by the bond registrar in accordance with the terms of this chapter and a series ordinance, as the owner or owners of a specific bond or bonds, for so long as any bonds are held in book-entry form, etc shall be deemed to be the sole registered owner.

Reserve account means the debt service reserve account in the bond fund, including any and all subaccounts thereunder created upon issuance of bonds under and as required by series ordinance.

Reserve account requirement means the required amount, if any, to be deposited by the City into a reserve account upon issuance of bonds pursuant to the respective series ordinance.

Revenue fund means the fund designated the "City of Ketchum Wastewater Revenue Fund," into which all the net revenues of the wastewater system is pledged to be deposited.

Revenue of the wastewater system or revenue(s) means all earnings, revenue and moneys received by the City from or on account of the operation of the wastewater system under generally accepted accounting principles, including income from investments of money in the bond fund or from any other investment thereof, except the income from investments irrevocably pledged to the payment of any other revenue obligations of the City pursuant to a plan of retirement or refunding. Revenues shall be increased by any withdrawals from the stabilization account as provided in section 3.15.060.C.2 of this chapter and shall be reduced by any deposits to the stabilization account as provided in section 3.15.060.C.1 of this chapter. However, the term "revenue of the wastewater system" or "revenue" shall not include:

- A. The interest income or other earnings derived from the investment of any escrow fund established for the defeasance or refunding of outstanding indebtedness of the City;
- B. Any gifts, grants, donations or other amounts received by the City from any state or federal agency or other person (i) if such amounts are restricted by law or the grantor to uses inconsistent with the payment of bonds or (ii) if such amounts are reimbursements of operation and maintenance expenses;
- C. The proceeds of any borrowing;
- D. The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues);
- E. The proceeds of any casualty insurance which the City intends to utilize for repair or replacement of the wastewater system;
- F. The proceeds derived from the sales of assets subject to the covenants in section 3.15.120.I of this chapter;

Qualified letter of credit means any letter of credit issued by a financial institution for the account of the City, which institution maintains an office, agency, or branch in the United States and as of the time of issuance of such letter of credit is rated in one of the two highest rating categories by each rating agency rating such series of bonds:

Rate covenant means net revenues in each fiscal year at least equal to 125 percent of the annual debt service.

Rating agency means Moody's, S&P or Fitch.

Rebate fund means the fund so designated by the Council into which all excess earnings on funds and accounts held by the City hereunder to the extent required by any tax certificate of the City shall be deposited.

Record date, unless otherwise provided in a series ordinance, mean (a) in the case of each interest payment date, the close of business on the fifteenth day preceding the interest payment date; and, if not a business day of the bond registrar, the next preceding day that is a business day of the bond registrar, and (b) in the case of redemption, if applicable, such record date as shall be specified by the bond registrar in the notice of redemption, provided that such record date shall be not less than 15 calendar days before the mailing of such notice of redemption.

Refunding bonds means bonds issued hereunder to refund prior revenue bonds of the City on parity with the parity bonds used to finance and/or refinance improvements to the wastewater system.

Registered owner or registered owners mean the person or persons whose names and addresses shall appear on the bond register maintained by the bond registrar in accordance with the terms of this chapter and a series ordinance, as the owner or owners of a specific bond or bonds, for so long as any bonds are held in book-entry form, etc shall be deemed to be the sole registered owner.

Reserve account means the debt service reserve account in the bond fund, including any and all subaccounts thereunder created upon issuance of bonds under and as required by series ordinance.

Reserve account requirement means the required amount, if any, to be deposited by the City into a reserve account upon issuance of bonds pursuant to the respective series ordinance.

Revenue fund means the fund designated the "City of Ketchum Wastewater Revenue Fund," into which all the net revenues of the wastewater system is pledged to be deposited.

Revenue of the wastewater system or revenue(s) means all earnings, revenue and moneys received by the City from or on account of the operation of the wastewater system under generally accepted accounting principles, including income from investments of money in the bond fund or from any other investment thereof, except the income from investments irrevocably pledged to the payment of any other revenue obligations of the City pursuant to a plan of retirement or refunding. Revenues shall be increased by any withdrawals from the stabilization account as provided in section 3.15.060.C.2 of this chapter and shall be reduced by any deposits to the stabilization account as provided in section 3.15.060.C.1 of this chapter. However, the term "revenue of the wastewater system" or "revenue" shall not include:

- A. The interest income or other earnings derived from the investment of any escrow fund established for the defeasance or refunding of outstanding indebtedness of the City;
- B. Any gifts, grants, donations or other amounts received by the City from any state or federal agency or other person (i) if such amounts are restricted by law or the grantor to uses inconsistent with the payment of bonds or (ii) if such amounts are reimbursements of operation and maintenance expenses;
- C. The proceeds of any borrowing;
- D. The proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues);

- G. Any income, fees, charges, receipts, profits or other amounts derived by the City from its ownership or operation of any separate utility system;
- H. Installment payments of City line and branch charges, connection fees, or local improvement district assessments that have been pledged as security for a borrowing other than a bond; or
- I. Any federal interest subsidies the City receives for interest subsidy bonds.

Rule 15c2-12 means Rule 15c2-12, as amended, promulgated by the SEC under the Securities and Exchange Act of 1934, as the same may be amended from time to time.

S&P means S&P Global Ratings, a business unit of Standard & Poor's Financial Services, LLC, its successors, and assigns, and, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, S&P shall be deemed to refer to any other nationally recognized securities rating agency (other than Moody's and Fitch) designated by the City.

SEC means the Securities and Exchange Commission.

Separate utility system means any water supply, sewage collection or treatment, stormwater or other utility service or facilities that may be created, acquired, or constructed by the City as provided in section 3.15.110.

Series refers to all bonds authorized by a single series ordinance and delivered in exchange for payment on the same date, regardless of variations in maturity, interest rate or other provisions, unless the closing documents for the series provide otherwise.

Series Ordinance means any ordinance adopted by the City supplementing this chapter to authorize the issuance of bonds under this chapter.

Stabilization account means the stabilization account established in the revenue fund pursuant to section 3.15.060.C.

Subordinate obligations means obligations having a lien on the net revenues which is subordinate to the lien of the bonds. On the date of this Master Ordinance [from which this chapter derived], the City has no borrowings outstanding with a subordinate lien on the net revenues.

Wastewater system means the wastewater or sewer system of the City, including the assets, real and personal, tangible and intangible, and as it may later be added to, extended and improved, and shall include buildings, structures, utilities or other income producing property from the operation of or in connection with which revenues for the payment of the bonds will be derived, and the lands appertaining thereto, including, without limitation, any project(s) to be acquired with the proceeds of bonds issued hereunder.

Tax certificate means any agreement or certificate of the City which the City may execute in order to establish and assure the tax-exempt status of interest received on bonds.

Tax-exempt bonds means any bonds, the interest on which, in the opinion of bond counsel delivered at the time of issuance thereof pursuant to a series ordinance, is excludable from gross income of the owners of such bonds for federal income tax purposes.

Tax maximum means, for any series of bonds for purposes of section 3.15.150.C of this chapter, the least of: the greatest amount of principal, interest and premium, if any, required to be paid in any fiscal year on such Series; 125 percent of average amount of principal, interest and premium, if any, required to be paid on such series during all fiscal years in which such series will be outstanding, calculated as of the date of issuance of such series; or, ten percent of the proceeds of such Series, as "proceeds" is defined for purposes of Section 148(d) of the Code.

Rules of interpretation. In this chapter, unless the context otherwise requires:

- A. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this chapter, refer to this chapter as a whole and not to any particular article, section, or subdivision;

~~E. The proceeds of any casualty insurance which the City intends to utilize for repair or replacement of the wastewater system;~~

~~F. The proceeds derived from the sales of assets subject to the covenants in section 3.15.120.I of this chapter;~~

~~G. Any income, fees, charges, receipts, profits or other amounts derived by the City from its ownership or operation of any separate utility system;~~

~~H. Installment payments of City line and branch charges, connection fees, or local improvement district assessments that have been pledged as security for a borrowing other than a bond; or~~

~~I. Any federal interest subsidies the City receives for interest subsidy bonds;~~

~~Rule 15c2-12 means Rule 15c2-12, as amended, promulgated by the SEC under the Securities and Exchange Act of 1934, as the same may be amended from time to time.~~

~~S&P means S&P Global Ratings, a business unit of Standard & Poor's Financial Services, LLC, its successors, and assigns, and, if such organization shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, S&P shall be deemed to refer to any other nationally recognized securities rating agency (other than Moody's and Fitch) designated by the City.~~

~~SEC means the Securities and Exchange Commission.~~

~~Separate utility system means any water supply, sewage collection or treatment, stormwater or other utility service or facilities that may be created, acquired, or constructed by the City as provided in section 3.15.110.~~

~~Series refers to all bonds authorized by a single series ordinance and delivered in exchange for payment on the same date, regardless of variations in maturity, interest rate or other provisions, unless the closing documents for the series provide otherwise.~~

~~Series Ordinance means any ordinance adopted by the City supplementing this chapter to authorize the issuance of bonds under this chapter.~~

~~Stabilization account means the stabilization account established in the revenue fund pursuant to section 3.15.060.C.~~

~~Subordinate obligations means obligations having a lien on the net revenues which is subordinate to the lien of the bonds. On the date of this Master Ordinance [from which this chapter derived], the City has no borrowings outstanding with a subordinate lien on the net revenues.~~

~~Wastewater system means the wastewater or sewer system of the City, including the assets, real and personal, tangible and intangible, and as it may later be added to, extended and improved, and shall include buildings, structures, utilities or other income producing property from the operation of or in connection with which revenues for the payment of the bonds will be derived, and the lands appertaining thereto, including, without limitation, any project(s) to be acquired with the proceeds of bonds issued hereunder.~~

~~Tax certificate means any agreement or certificate of the City which the City may execute in order to establish and assure the tax-exempt status of interest received on bonds.~~

~~Tax-exempt bonds means any bonds, the interest on which, in the opinion of bond counsel delivered at the time of issuance thereof pursuant to a series ordinance, is excludable from gross income of the owners of such bonds for federal income tax purposes.~~

~~Tax maximum means, for any series of bonds for purposes of section 3.15.150.C of this chapter, the least of: the greatest amount of principal, interest and premium, if any, required to be paid in any fiscal year on such Series; 125 percent of average amount of principal, interest and premium, if any, required to be paid on such series during all fiscal years in which such series will be outstanding, calculated as of the date of issuance of such series; or, ten percent of the proceeds of such Series, as "proceeds" is defined for purposes of Section 148(d) of the Code.~~

- B. Words importing the singular number shall mean and include the plural number and vice versa;
- C. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;
- D. Any headings preceding the text of any sections of this chapter, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this chapter, nor shall they affect its meaning, construction or effect; and
- E. All references herein to "articles," "sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

(Ord. No. 1247, § 1, 3-27-2023)

3.15.020 Authorization of bonds; delegation authority.

In accordance with and subject to the terms, condition and limitations of the Act or other statutes authorizing bonds to be issued hereunder, the City is authorized to issue bonds pursuant to the terms and provisions hereof as supplemented by the terms and provisions of series ordinance(s) to provide for the specific terms and provisions thereof, including, but not limited to, the designation of each series of bonds, which designation may include the words "wastewater" or "sewer," the dated date of original issuance and delivery thereof, the registration provisions thereof, the denominations, maturity, payment and redemption provisions thereof, and requirements, if any, for a reserve account to pay debt service on the bonds. In addition, pursuant to Idaho Code, section 57-235, or comparable statute as then in effect, in the series ordinance authorizing the issuance of bonds, the City may delegate authority to the Mayor or the City Administrator to approve the final terms and provisions of the bonds upon the sale thereof, without any requirement that the members of the council meet to approve such determinations.

Bonds shall be special obligations only of the bond fund and shall be payable and secured as provided herein. The bonds do not constitute an indebtedness or general obligation of the City within the meaning of the constitutional provisions and limitations of the State of Idaho.

(Ord. No. 1247, § 2, 3-27-2023)

3.15.030 Registration.

Upon issuance of bonds hereunder, if required by a series ordinance, the City will appoint a registrar, authenticating agent, paying agent and transfer agent (collectively, the "bond registrar") for such series of bonds and the City will provide for the registration of such series of bonds pursuant to the series ordinance.

(Ord. No. 1247, § 3, 3-27-2023)

3.15.040 Redemption and purchase.

The respective redemption and purchase provisions for a series of bonds shall be set forth in the series ordinance for such series of bonds.

(Ord. No. 1247, § 4, 3-27-2023)

Rules of interpretation. In this chapter, unless the context otherwise requires:

- A. The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this chapter, refer to this chapter as a whole and not to any particular article, section, or subdivision;
- B. Words importing the singular number shall mean and include the plural number and vice versa;
- C. Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;
- D. Any headings preceding the text of any sections of this chapter, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this chapter, nor shall they affect its meaning, construction or effect; and
- E. All references herein to "articles," "sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

(Ord. No. 1247, § 1, 3-27-2023)

3.15.020 Authorization of bonds; delegation authority.

~~In accordance with and subject to the terms, condition and limitations of the Act or other statutes authorizing bonds to be issued hereunder, the City is authorized to issue bonds pursuant to the terms and provisions hereof as supplemented by the terms and provisions of series ordinance(s) to provide for the specific terms and provisions thereof, including, but not limited to, the designation of each series of bonds, which designation may include the words "wastewater" or "sewer," the dated date of original issuance and delivery thereof, the registration provisions thereof, the denominations, maturity, payment and redemption provisions thereof, and requirements, if any, for a reserve account to pay debt service on the bonds. In addition, pursuant to Idaho Code, section 57-235, or comparable statute as then in effect, in the series ordinance authorizing the issuance of bonds, the City may delegate authority to the Mayor or the City Administrator to approve the final terms and provisions of the bonds upon the sale thereof, without any requirement that the members of the council meet to approve such determinations.~~

~~Bonds shall be special obligations only of the bond fund and shall be payable and secured as provided herein. The bonds do not constitute an indebtedness or general obligation of the City within the meaning of the constitutional provisions and limitations of the State of Idaho.~~

~~(Ord. No. 1247, § 2, 3-27-2023)~~

3.15.030 Registration.

~~Upon issuance of bonds hereunder, if required by a series ordinance, the City will appoint a registrar, authenticating agent, paying agent and transfer agent (collectively, the "bond registrar") for such series of bonds and the City will provide for the registration of such series of bonds pursuant to the series ordinance.~~

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~~(Ord. No. 1247, § 4, 3-27-2023)~~

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3.15.050 Establishment of accounts and funds.

The following accounts and funds on the accounting records of the City are hereby ratified, if previously created, or created with respect to the bonds issued hereunder:

- A. Bond fund, held by the City, consisting of the debt service account and any and all reserve accounts established by a series ordinance;
- B. Revenue fund, held by the City and therein a stabilization account;
- C. Project fund and subaccounts therein established by a series ordinance; and
- D. Rebate fund, held by the City.

(Ord. No. 1247, § 5, 3-27-2023)

3.15.060 Revenue fund; priority of application of revenue; stabilization account.

- A. *Revenue fund.* The City shall maintain the "City of Ketchum Wastewater Revenue Fund" (the "revenue fund") as a separate enterprise fund of the City. All revenue of the wastewater system shall be deposited in the revenue fund. Notwithstanding the foregoing, the City may maintain such separate funds and accounts in such names and under such additional designations as shall be required to comply with standard accounting practices.
- B. *Priority of application of revenue of the wastewater system.* The revenue fund shall be held separate and apart from all other funds and accounts of the City, and the revenue of the wastewater system deposited in such revenue fund shall be used only for the following purposes and in the following order of priority:

First, to pay the operation and maintenance expenses of the wastewater system;

Second, to pay the interest on any bonds;

Third, to pay the principal of any bonds;

Fourth, to make all payments required to be made into any reserve account created to secure payment of debt service on any series of bonds;

Fifth, to make all payments, together with other available funds, on the day on which any rebates or penalties for bonds are due to be paid to the United States pursuant to Section 148 of the Code;

Sixth, to make all payments required to be made into any revenue bond redemption fund or revenue warrant redemption fund and debt service fund or reserve account created to pay and secure the payment of the principal of and interest on government loans and any other revenue bonds or revenue warrants of the City having a lien upon the net revenues of the wastewater system junior and inferior to the lien thereon for the payment of the principal of and interest on the bonds; and

Seventh, to retire by redemption or purchase any outstanding Bonds or subordinate revenue warrants or subordinate bonds of the City payable out of the net revenues of the wastewater system, to make necessary additions, betterments, improvements, and repairs to or extensions and replacements of the wastewater system, or for any other lawful city purposes.

The City may transfer any money from any funds or accounts of the wastewater system legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the bond fund.

- C. *Stabilization account.* The City shall create a stabilization account in the revenue fund and will maintain that account as long as bonds are outstanding. Net revenues may be transferred to the stabilization account at

~~**3.15.050 Establishment of accounts and funds.**~~

~~The following accounts and funds on the accounting records of the City are hereby ratified, if previously created, or created with respect to the bonds issued hereunder:~~

- ~~A. Bond fund, held by the City, consisting of the debt service account and any and all reserve accounts established by a series ordinance;~~
- ~~B. Revenue fund, held by the City and therein a stabilization account;~~
- ~~C. Project fund and subaccounts therein established by a series ordinance; and~~
- ~~D. Rebate fund, held by the City.~~

~~(Ord. No. 1247, § 5, 3-27-2023)~~

~~**3.15.060 Revenue fund; priority of application of revenue; stabilization account.**~~

- ~~A. *Revenue fund.* The City shall maintain the "City of Ketchum Wastewater Revenue Fund" (the "revenue fund") as a separate enterprise fund of the City. All revenue of the wastewater system shall be deposited in the revenue fund. Notwithstanding the foregoing, the City may maintain such separate funds and accounts in such names and under such additional designations as shall be required to comply with standard accounting practices;~~

- ~~B. *Priority of application of revenue of the wastewater system.* The revenue fund shall be held separate and apart from all other funds and accounts of the City, and the revenue of the wastewater system deposited in such revenue fund shall be used only for the following purposes and in the following order of priority:~~

~~First, to pay the operation and maintenance expenses of the wastewater system;~~

~~Second, to pay the interest on any bonds;~~

~~Third, to pay the principal of any bonds;~~

~~Fourth, to make all payments required to be made into any reserve account created to secure payment of debt service on any series of bonds;~~

~~Fifth, to make all payments, together with other available funds, on the day on which any rebates or penalties for bonds are due to be paid to the United States pursuant to Section 148 of the Code;~~

~~Sixth, to make all payments required to be made into any revenue bond redemption fund or revenue warrant redemption fund and debt service fund or reserve account created to pay and secure the payment of the principal of and interest on government loans and any other revenue bonds or revenue warrants of the City having a lien upon the net revenues of the wastewater system junior and inferior to the lien thereon for the payment of the principal of and interest on the bonds; and~~

~~Seventh, to retire by redemption or purchase any outstanding Bonds or subordinate revenue warrants or subordinate bonds of the City payable out of the net revenues of the wastewater system, to make necessary additions, betterments, improvements, and repairs to or extensions and replacements of the wastewater system, or for any other lawful city purposes.~~

~~The City may transfer any money from any funds or accounts of the wastewater system legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the bond fund.~~

- ~~C. *Stabilization account.* The City shall create a stabilization account in the revenue fund and will maintain that account as long as bonds are outstanding. Net revenues may be transferred to the stabilization account at~~

the option of the City on any date. Money in the stabilization account may be withdrawn at any time and used for any purpose for which the revenues may be used.

1. Deposits to the stabilization account decrease revenues in the fiscal year for which the deposit is made.
2. Withdrawals from the stabilization account increase revenues in the fiscal year for which the withdrawal is made.
3. The City may adjust deposits to and withdrawals from the stabilization account for a fiscal year up until 180 days after the end of that fiscal year.
4. Earnings on the stabilization account shall be credited to the revenue fund.

(Ord. No. 1247, § 6, 3-27-2023)

3.15.070 Bond fund.

There is hereby created a fund known as the "City of Ketchum Wastewater Revenue Bond Fund" (the "bond fund") solely for the purpose of paying the principal of, premium, if any, and interest on the bonds. The bond fund shall consist of the following accounts: (1) debt service account and (2) debt service reserve account, including any and all subaccounts thereunder.

Said accounts are more particularly described as follows:

- A. *Debt service account.* As long as any bonds remain outstanding, the City hereby irrevocably obligates and binds itself to set aside and pay from the revenue fund into the debt service account those amounts necessary, together with such other funds as are on hand and available in the debt service account, to pay the interest or principal and interest next coming due on the bonds.
- B. *Reserve account.* The City shall maintain a debt service reserve account, including any and all subaccounts established thereunder if required pursuant to a series ordinance (the "reserve account") for the purpose of securing the payment of the principal of and interest on a series of bonds subject to a reserve account requirement, as provided in the series ordinance for such bonds. The City will covenant and agree in the series ordinance(s) for bonds, as applicable, to maintain at all times an amount in the reserve account, if applicable, equal to the reserve account requirement, except for withdrawals authorized therefrom, for so long as such bonds remain outstanding.

Alternatively, a reserve account requirement for any issue of bonds may be maintained, in whole or in part, by a qualified letter of credit or qualified insurance, as provided in the respective series ordinance. The amount payable from the qualified insurance or the qualified letter of credit shall be credited against the amounts otherwise required to be accumulated and maintained in a reserve account. In computing the amount on hand in the reserve account, qualified insurance and/or a qualified letter of credit shall be valued at the face amount thereof, and all other obligations purchased as an investment of moneys therein shall be valued at cost.

The series ordinance for each series of bonds will set out the terms and provisions for withdrawals from the reserve account, if required, in the event of insufficient amounts in the debt service account to pay the principal of, premium if any, interest on, and mandatory sinking fund installments, as applicable, on any bonds secured by such reserve account then outstanding, and the provisions for any surplus in the reserve account, if applicable.

In the event there shall be a deficiency in the debt service account to meet maturing installments of either principal, interest, or sinking fund installments on the bonds payable out of such account, such deficiency shall be made up from the reserve account(s), as applicable, by the withdrawal of moneys therefrom. Any deficiency created in a reserve account by reason of any such withdrawal shall then be made up out of revenue of the wastewater system (after making necessary provision for the payments required to be made by subparagraphs first through third of section 3.15.060.B) by paying into the applicable reserve account one-twelfth of the

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~~the option of the City on any date. Money in the stabilization account may be withdrawn at any time and used for any purpose for which the revenues may be used.~~

- ~~1. Deposits to the stabilization account decrease revenues in the fiscal year for which the deposit is made.~~
- ~~2. Withdrawals from the stabilization account increase revenues in the fiscal year for which the withdrawal is made.~~
- ~~3. The City may adjust deposits to and withdrawals from the stabilization account for a fiscal year up until 180 days after the end of that fiscal year.~~
- ~~4. Earnings on the stabilization account shall be credited to the revenue fund.~~

~~(Ord. No. 1247, § 6, 3-27-2023)~~

~~3.15.070 Bond fund.~~

~~There is hereby created a fund known as the "City of Ketchum Wastewater Revenue Bond Fund" (the "bond fund") solely for the purpose of paying the principal of, premium, if any, and interest on the bonds. The bond fund shall consist of the following accounts: (1) debt service account and (2) debt service reserve account, including any and all subaccounts thereunder.~~

~~Said accounts are more particularly described as follows:~~

- ~~A. *Debt service account.* As long as any bonds remain outstanding, the City hereby irrevocably obligates and binds itself to set aside and pay from the revenue fund into the debt service account those amounts necessary, together with such other funds as are on hand and available in the debt service account, to pay the interest or principal and interest next coming due on the bonds.~~
- ~~B. *Reserve account.* The City shall maintain a debt service reserve account, including any and all subaccounts established thereunder if required pursuant to a series ordinance (the "reserve account") for the purpose of securing the payment of the principal of and interest on a series of bonds subject to a reserve account requirement, as provided in the series ordinance for such bonds. The City will covenant and agree in the series ordinance(s) for bonds, as applicable, to maintain at all times an amount in the reserve account, if applicable, equal to the reserve account requirement, except for withdrawals authorized therefrom, for so long as such bonds remain outstanding.~~

~~Alternatively, a reserve account requirement for any issue of bonds may be maintained, in whole or in part, by a qualified letter of credit or qualified insurance, as provided in the respective series ordinance. The amount payable from the qualified insurance or the qualified letter of credit shall be credited against the amounts otherwise required to be accumulated and maintained in a reserve account. In computing the amount on hand in the reserve account, qualified insurance and/or a qualified letter of credit shall be valued at the face amount thereof, and all other obligations purchased as an investment of moneys therein shall be valued at cost.~~

~~The series ordinance for each series of bonds will set out the terms and provisions for withdrawals from the reserve account, if required, in the event of insufficient amounts in the debt service account to pay the principal of, premium if any, interest on, and mandatory sinking fund installments, as applicable, on any bonds secured by such reserve account then outstanding, and the provisions for any surplus in the reserve account, if applicable.~~

~~In the event there shall be a deficiency in the debt service account to meet maturing installments of either principal, interest, or sinking fund installments on the bonds payable out of such account, such deficiency shall be made up from the reserve account(s), as applicable, by the withdrawal of moneys therefrom. Any deficiency created in a reserve account by reason of any such withdrawal shall then be made up out of revenue of the wastewater system (after making necessary provision for the payments required to be made by subparagraphs first through third of section 3.15.060.B) by paying into the applicable reserve account one-twelfth of the~~

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deficiency on or before the first day of each of the next 12 succeeding months so that there will have been paid into the applicable reserve account an amount which, with money already on deposit therein, will equal the reserve account requirement, as applicable.

The value of money and obligations credited to any and all reserve accounts, as applicable, shall be determined by the City annually as of September 30. If the valuation shall be less than the amount required to be maintained therein, the deficiency (due to said valuation and not to a withdrawal) shall be made up from the revenue fund by paying into the applicable Reserve Account one-sixth of the deficiency on or before the first day of each of the next six succeeding months.

- [A.] *Sufficiency of revenues.* The Council hereby states and certifies that in setting aside and providing for said payments into the various accounts within the bond fund of the amounts necessary for the payment of the principal, interest, and sinking fund installments on said bonds, as applicable, the Council has taken into consideration and has due regard for operation and maintenance expenses, and the Council will set aside into said accounts within the bond fund moneys sufficient and necessary to retire said bonds (including principal, interest, and sinking fund installments), after paying all operation and maintenance expenses.
- [B.] *Pledge of net revenue; priority of lien of payments into accounts within the bond fund.* The net revenues are hereby pledged to the payment of bonds and declared to be a prior lien and first charge thereon superior to all other charges of any kind or nature whatsoever pursuant to Idaho Code, section 50-1039. The federal interest subsidies the City receives for interest subsidy bonds are also hereby pledged to the payment of the bonds and declared to be a prior lien and first charge thereon superior to all other charges of any kind or nature whatsoever pursuant to Idaho Code, section 50-1039.
- [C.] *Application and investment of moneys in accounts within the bond fund.* Moneys in the various accounts within the bond fund may be invested in permitted investments. Investments of funds in the accounts within the bond fund shall mature prior to the date on which such moneys shall be needed for required interest, principal, or sinking fund installments. Investments of funds in the reserve account shall be available to pay any deficiencies that may occur in any of the accounts within the bond fund. All interest earned and income derived by virtue of such investments shall remain in the bond fund and be used to meet the required deposits into any account therein. Subject to the other provisions of this subparagraph, moneys in the debt service account and the reserve account, as applicable, may be combined for the purpose of purchasing investments, but the records of the City shall show to which account the respective portions of any such combined investment are credited.

(Ord. No. 1247, § 7, 3-27-2023)

3.15.080 Project fund.

The City hereby creates a fund known as the "City of Ketchum Wastewater Revenue Project Fund" (the "project fund") into which shall be deposited all of the proceeds of the sale of bonds to be used for the payment of the cost of acquisition and construction of a project, including costs of issuance of bonds. Any interest earnings on moneys invested from the project fund shall be deposited into said project fund. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said project fund to assure the completion of the project.

When the construction of the project has been completed and all costs related thereto have been paid in full, any balance remaining in the project fund will be deposited into the bond fund.

(Ord. No. 1247, § 8, 3-27-2023)

~~deficiency on or before the first day of each of the next 12 succeeding months so that there will have been paid into the applicable reserve account an amount which, with money already on deposit therein, will equal the reserve account requirement, as applicable.~~

~~The value of money and obligations credited to any and all reserve accounts, as applicable, shall be determined by the City annually as of September 30. If the valuation shall be less than the amount required to be maintained therein, the deficiency (due to said valuation and not to a withdrawal) shall be made up from the revenue fund by paying into the applicable Reserve Account one-sixth of the deficiency on or before the first day of each of the next six succeeding months.~~

~~[A.] *Sufficiency of revenues.* The Council hereby states and certifies that in setting aside and providing for said payments into the various accounts within the bond fund of the amounts necessary for the payment of the principal, interest, and sinking fund installments on said bonds, as applicable, the Council has taken into consideration and has due regard for operation and maintenance expenses, and the Council will set aside into said accounts within the bond fund moneys sufficient and necessary to retire said bonds (including principal, interest, and sinking fund installments), after paying all operation and maintenance expenses.~~

~~[B.] *Pledge of net revenue; priority of lien of payments into accounts within the bond fund.* The net revenues are hereby pledged to the payment of bonds and declared to be a prior lien and first charge thereon superior to all other charges of any kind or nature whatsoever pursuant to Idaho Code, section 50-1039. The federal interest subsidies the City receives for interest subsidy bonds are also hereby pledged to the payment of the bonds and declared to be a prior lien and first charge thereon superior to all other charges of any kind or nature whatsoever pursuant to Idaho Code, section 50-1039.~~

~~[C.] *Application and investment of moneys in accounts within the bond fund.* Moneys in the various accounts within the bond fund may be invested in permitted investments. Investments of funds in the accounts within the bond fund shall mature prior to the date on which such moneys shall be needed for required interest, principal, or sinking fund installments. Investments of funds in the reserve account shall be available to pay any deficiencies that may occur in any of the accounts within the bond fund. All interest earned and income derived by virtue of such investments shall remain in the bond fund and be used to meet the required deposits into any account therein. Subject to the other provisions of this subparagraph, moneys in the debt service account and the reserve account, as applicable, may be combined for the purpose of purchasing investments, but the records of the City shall show to which account the respective portions of any such combined investment are credited.~~

~~(Ord. No. 1247, § 7, 3-27-2023)~~

~~3.15.080 Project fund.~~

~~The City hereby creates a fund known as the "City of Ketchum Wastewater Revenue Project Fund" (the "project fund") into which shall be deposited all of the proceeds of the sale of bonds to be used for the payment of the cost of acquisition and construction of a project, including costs of issuance of bonds. Any interest earnings on moneys invested from the project fund shall be deposited into said project fund. The City's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into said project fund to assure the completion of the project.~~

~~When the construction of the project has been completed and all costs related thereto have been paid in full, any balance remaining in the project fund will be deposited into the bond fund.~~

~~(Ord. No. 1247, § 8, 3-27-2023)~~

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3.15.090 Rebate fund; rebate requirement.

There is hereby established a rebate fund into which shall be deposited, from time to time, all excess earnings on funds and accounts held by the City hereunder to the extent required by any tax certificate of the City and said amounts shall be held in trust for the payment of arbitrage rebate in accordance with Section 148 of the Code and the tax certificate. All earnings on the rebate fund shall remain within said fund and shall be used for no other purpose unless the City provides the bond registrar with an opinion of nationally recognized bond counsel that another use will not cause interest on the respective bonds to cease to qualify for exclusion from federal income taxation under the Code.

The bond registrar may rely conclusively upon and shall be fully protected from all liability in relying upon the issuer's determinations, calculations, certifications, and written directions required by this section and the bond registrar shall have no responsibility to monitor and independently make any calculations or determination or to review the issuer's determinations, calculations, certifications, and written directions required by this section.

(Ord. No. 1247, § 9, 3-27-2023)

3.15.100 Authorization for projects.

The council hereby authorizes and directs that upon determination that it is necessary to preserve the public health, safety and welfare that certain components of the City's existing wastewater system be repaired, replaced and/or improved, that project(s) may be financed by the issuance of the bonds and/or subordinate obligations upon adoption of series ordinance(s) pursuant to and upon compliance with section 3.15.140 hereunder.

Each such series ordinance authorizing the bonds and/or subordinate obligations to finance a project shall include:

- A. The description of the project to be acquired, constructed and installed;
- B. That the City, its staff and agents shall undertake the project in accordance with maps, plans and specifications prepared by the City's Engineer or consulting engineer engaged by the City, which shall be on file in the City Clerk's office, and which may be revised prior to or in the course of actual construction, provided such changes are found necessary and desirable by the Council and that such changes do not substantially affect or alter the plans or costs of the project; and
- C. The total estimated cost of acquisition and construction of the project to be financed by the bonds and/or subordinate obligations.

(Ord. No. 1247, § 10, 3-27-2023)

3.15.110 Separate utility systems.

The City may declare property which the City owns and is part of the wastewater system (but has a value of less than ten percent of the wastewater system at the time of the declaration), and property which the City has not yet acquired but would otherwise become part of the wastewater system, to be part of a separate utility system.

The City may pay costs of acquiring, operating, and maintaining a separate utility system from net revenues, but only if there is no deficit in the debt service account or a reserve account within the bond fund. The City may issue obligations which are secured by the revenues produced by the separate utility system and may pledge the separate utility system revenues to pay those obligations. In addition, the City may issue subordinate obligations to pay for costs of a separate utility system and may pledge the revenues of the separate utility system to pay the subordinate obligations. Further, the City may pledge the revenues produced by a separate utility system to pay

~~3.15.090 Rebate fund; rebate requirement.~~

~~There is hereby established a rebate fund into which shall be deposited, from time to time, all excess earnings on funds and accounts held by the City hereunder to the extent required by any tax certificate of the City and said amounts shall be held in trust for the payment of arbitrage rebate in accordance with Section 148 of the Code and the tax certificate. All earnings on the rebate fund shall remain within said fund and shall be used for no other purpose unless the City provides the bond registrar with an opinion of nationally recognized bond counsel that another use will not cause interest on the respective bonds to cease to qualify for exclusion from federal income taxation under the Code.~~

~~The bond registrar may rely conclusively upon and shall be fully protected from all liability in relying upon the issuer's determinations, calculations, certifications, and written directions required by this section and the bond registrar shall have no responsibility to monitor and independently make any calculations or determination or to review the issuer's determinations, calculations, certifications, and written directions required by this section.~~

~~(Ord. No. 1247, § 9, 3-27-2023)~~

~~3.15.100 Authorization for projects.~~

~~The council hereby authorizes and directs that upon determination that it is necessary to preserve the public health, safety and welfare that certain components of the City's existing wastewater system be repaired, replaced and/or improved, that project(s) may be financed by the issuance of the bonds and/or subordinate obligations upon adoption of series ordinance(s) pursuant to and upon compliance with section 3.15.140 hereunder.~~

~~Each such series ordinance authorizing the bonds and/or subordinate obligations to finance a project shall include:~~

- ~~A. The description of the project to be acquired, constructed and installed;~~
- ~~B. That the City, its staff and agents shall undertake the project in accordance with maps, plans and specifications prepared by the City's Engineer or consulting engineer engaged by the City, which shall be on file in the City Clerk's office, and which may be revised prior to or in the course of actual construction, provided such changes are found necessary and desirable by the Council and that such changes do not substantially affect or alter the plans or costs of the project; and~~
- ~~C. The total estimated cost of acquisition and construction of the project to be financed by the bonds and/or subordinate obligations.~~

~~(Ord. No. 1247, § 10, 3-27-2023)~~

~~3.15.110 Separate utility systems.~~

~~The City may declare property which the City owns and is part of the wastewater system (but has a value of less than ten percent of the wastewater system at the time of the declaration), and property which the City has not yet acquired but would otherwise become part of the wastewater system, to be part of a separate utility system.~~

~~The City may pay costs of acquiring, operating, and maintaining a separate utility system from net revenues, but only if there is no deficit in the debt service account or a reserve account within the bond fund. The City may issue obligations which are secured by the revenues produced by the separate utility system and may pledge the separate utility system revenues to pay those obligations. In addition, the City may issue subordinate obligations to pay for costs of a separate utility system and may pledge the revenues of the separate utility system to pay the subordinate obligations. Further, the City may pledge the revenues produced by a separate utility system to pay~~

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the bonds issued under this chapter by filing a written certificate of the mayor and the city administrator declaring such pledge with the city and the owner of the bonds.

Neither the revenue nor net revenue may be pledged to the payment of any obligations of a separate utility system except that the net revenue may be pledged on a basis subordinate to the lien on such revenue to the lien of the bonds.

(Ord. No. 1247, § 11, 3-27-2023)

3.15.120 Specific covenants.

For the protection and security of the bonds, the City hereby covenants and agrees to and with the registered owners of parity bonds that the City will perform the following covenants:

- A. *Rate covenant.* The City has established, may from time-to-time revise, and shall maintain and shall collect from the users of the wastewater system, rates and charges for furnishing the services and the facilities of the wastewater system to such users thereof. The City shall establish, maintain, and collect such rates and charges for service of its wastewater system for so long as any bonds are outstanding and shall maintain the rate covenant.
- B. *Acquire projects.* The City shall commence the acquisition, construction and completion of any project financed by proceeds of bonds and continue the same with all practical dispatch and in a sound and economical manner.
- C. *Operate wastewater system.* The City shall operate the wastewater system in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services, facilities, and properties of the wastewater system may be furnished at the lowest possible cost consistent with sound economy and prudent management.
- D. *Good repair.* The City shall operate, maintain, preserve, and keep the wastewater system and every part hereof in good repair, working order, and condition.
- E. *Preserve security.* The City shall preserve and protect the security of the bonds and the rights of the registered owners thereof.
- F. *Collect revenues.* The City shall collect and hold in trust the revenue of the wastewater system and other funds pledged to the payment of the bonds and apply such revenue of the wastewater system or other funds only as provided in this chapter and all series ordinances.
- G. *Service bonds.* The City shall pay and cause to be paid punctually the principal of and interest on the bonds on the date or dates, at the place or places, and in the manner that such sums are due in accordance with this chapter and all series ordinances.
- H. *Pay claims.* The City shall pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the revenue of the wastewater system, or any part of said revenue of the wastewater system, or any funds in the hands of the City Treasurer or City Administrator, prior or superior to the lien of the bonds or which might impair the security of the bonds to the end that the priority and security of the bonds shall be fully preserved and protected.
- I. *Encumbrances, sales, or transfers of wastewater system.* The City shall not encumber, sell, lease, or dispose of the wastewater system or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the wastewater system or any part thereof necessary to secure adequate revenue for the payment of the principal of and interest on bonds and for the City to meet the rate covenant, nor which would otherwise impair or impede the rights of the registered owners of bonds with respect to such revenue or the operation of the wastewater system, except:

~~the bonds issued under this chapter by filing a written certificate of the mayor and the city administrator declaring such pledge with the city and the owner of the bonds.~~

~~Neither the revenue nor net revenue may be pledged to the payment of any obligations of a separate utility system except that the net revenue may be pledged on a basis subordinate to the lien on such revenue to the lien of the bonds.~~

~~(Ord. No. 1247, § 11, 3-27-2023)~~

~~3.15.120 Specific covenants.~~

~~For the protection and security of the bonds, the City hereby covenants and agrees to and with the registered owners of parity bonds that the City will perform the following covenants:~~

- ~~A. *Rate covenant.* The City has established, may from time-to-time revise, and shall maintain and shall collect from the users of the wastewater system, rates and charges for furnishing the services and the facilities of the wastewater system to such users thereof. The City shall establish, maintain, and collect such rates and charges for service of its wastewater system for so long as any bonds are outstanding and shall maintain the rate covenant.~~
- ~~B. *Acquire projects.* The City shall commence the acquisition, construction and completion of any project financed by proceeds of bonds and continue the same with all practical dispatch and in a sound and economical manner.~~
- ~~C. *Operate wastewater system.* The City shall operate the wastewater system in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services, facilities, and properties of the wastewater system may be furnished at the lowest possible cost consistent with sound economy and prudent management.~~
- ~~D. *Good repair.* The City shall operate, maintain, preserve, and keep the wastewater system and every part hereof in good repair, working order, and condition.~~
- ~~E. *Preserve security.* The City shall preserve and protect the security of the bonds and the rights of the registered owners thereof.~~
- ~~F. *Collect revenues.* The City shall collect and hold in trust the revenue of the wastewater system and other funds pledged to the payment of the bonds and apply such revenue of the wastewater system or other funds only as provided in this chapter and all series ordinances.~~
- ~~G. *Service bonds.* The City shall pay and cause to be paid punctually the principal of and interest on the bonds on the date or dates, at the place or places, and in the manner that such sums are due in accordance with this chapter and all series ordinances.~~
- ~~H. *Pay claims.* The City shall pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the revenue of the wastewater system, or any part of said revenue of the wastewater system, or any funds in the hands of the City Treasurer or City Administrator, prior or superior to the lien of the bonds or which might impair the security of the bonds to the end that the priority and security of the bonds shall be fully preserved and protected.~~
- ~~I. *Encumbrances, sales, or transfers of wastewater system.* The City shall not encumber, sell, lease, or dispose of the wastewater system or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the wastewater system or any part thereof necessary to secure adequate revenue for the payment of the principal of and interest on bonds and for the City to meet the rate covenant, nor which would otherwise impair or impede the rights of the registered owners of bonds with respect to such revenue or the operation of the wastewater system, except:~~

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1. The City may dispose of all or substantially all the wastewater system, if the City pays all outstanding bonds or defeases all outstanding bonds pursuant to section 3.15.190; or
2. The City in its discretion may carry out a sale, transfer, or disposition (each, as used in this clause, a "transfer") if the facilities or property transferred are not material to the operation of the wastewater system, or shall have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the wastewater system or are no longer necessary, material or useful to the operation of the wastewater system; or
3. The City in its discretion may carry out such a transfer if the aggregate depreciated cost value of the facilities or property being transferred in any one fiscal year comprises no more than ten percent of the total assets of the wastewater system, so long as there has been filed with the City a certificate of the City Treasurer or City Administrator, or a Qualified Consultant stating that such disposition will not impair the ability of the City to comply with the rate covenant; or
4. The City in its discretion may carry out such a transfer if the City receives from the transferee an amount equal to the greater of the following:
 - a. An amount which will be in the same proportion to the net amount of outstanding bonds (less the amount of cash and investments in the bond fund and accounts therein) that the revenue of the wastewater system from the portion of the wastewater system sold or disposed of for the preceding year bear to the total revenue for that period; or
 - b. An amount which will in the same proportion to the net amount of outstanding bonds (less the amount of cash and investments in the bond fund and accounts therein) that the net revenue from the portion of the wastewater system sold or disposed of for the preceding year bears to the total net revenue for such period; or
 - c. An amount equal to the fair market value of the portion of the wastewater system transferred. As used herein, "fair market value" means the most probable price that a property should bring in competitive and open market under all condition's requisite to a fair sale, the willing buyer and willing seller each acting prudently and knowledgeably and assuming that the price is not affected by coercion or undue stimulus.

The proceeds of any transfer under this subparagraph (i) shall be used, first, to promptly redeem (or shall be irrevocably set aside for the redemption of) outstanding bonds, and, if any proceeds remain, second, to provide for part of the cost of additions to and betterments and extension of the wastewater system.

- J. **Insurance.** The City shall self-insure or procure and keep in force insurance upon all buildings and structures of the wastewater system and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect the City and the registered owners of any bonds from loss due to any casualty, and in the event of any such loss, the proceeds shall be used to repair or restore the wastewater system or for the payment of bonds.
- K. **Fidelity bonds.** The City shall procure suitable fidelity bonds covering all its officers and other employees charged with the operation of the wastewater system and the collection and disbursement of revenue of the wastewater system.
- L. **Engineers.** The City shall employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the wastewater system for any unusual or extraordinary items of maintenance, repair, extensions, or betterments as shall be required from time to time. All reports, estimates, and recommendations of such consulting engineers shall be filed with the Clerk and furnished to the registered owners of any bonds upon request.

- ~~1. The City may dispose of all or substantially all the wastewater system, if the City pays all outstanding bonds or defeases all outstanding bonds pursuant to section 3.15.190; or~~
- ~~2. The City in its discretion may carry out a sale, transfer, or disposition (each, as used in this clause, a "transfer") if the facilities or property transferred are not material to the operation of the wastewater system, or shall have become unserviceable, inadequate, obsolete, or unfit to be used in the operation of the wastewater system or are no longer necessary, material or useful to the operation of the wastewater system; or~~
- ~~3. The City in its discretion may carry out such a transfer if the aggregate depreciated cost value of the facilities or property being transferred in any one fiscal year comprises no more than ten percent of the total assets of the wastewater system, so long as there has been filed with the City a certificate of the City Treasurer or City Administrator, or a Qualified Consultant stating that such disposition will not impair the ability of the City to comply with the rate covenant; or~~
- ~~4. The City in its discretion may carry out such a transfer if the City receives from the transferee an amount equal to the greater of the following:

 - ~~a. An amount which will be in the same proportion to the net amount of outstanding bonds (less the amount of cash and investments in the bond fund and accounts therein) that the revenue of the wastewater system from the portion of the wastewater system sold or disposed of for the preceding year bear to the total revenue for that period; or~~
 - ~~b. An amount which will in the same proportion to the net amount of outstanding bonds (less the amount of cash and investments in the bond fund and accounts therein) that the net revenue from the portion of the wastewater system sold or disposed of for the preceding year bears to the total net revenue for such period; or~~
 - ~~c. An amount equal to the fair market value of the portion of the wastewater system transferred. As used herein, "fair market value" means the most probable price that a property should bring in competitive and open market under all condition's requisite to a fair sale, the willing buyer and willing seller each acting prudently and knowledgeably and assuming that the price is not affected by coercion or undue stimulus.~~

The proceeds of any transfer under this subparagraph (i) shall be used, first, to promptly redeem (or shall be irrevocably set aside for the redemption of) outstanding bonds, and, if any proceeds remain, second, to provide for part of the cost of additions to and betterments and extension of the wastewater system.~~
- ~~J. **Insurance.** The City shall self-insure or procure and keep in force insurance upon all buildings and structures of the wastewater system and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect the City and the registered owners of any bonds from loss due to any casualty, and in the event of any such loss, the proceeds shall be used to repair or restore the wastewater system or for the payment of bonds.~~
- ~~K. **Fidelity bonds.** The City shall procure suitable fidelity bonds covering all its officers and other employees charged with the operation of the wastewater system and the collection and disbursement of revenue of the wastewater system.~~
- ~~L. **Engineers.** The City shall employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the wastewater system for any unusual or extraordinary items of maintenance, repair, extensions, or betterments as shall be required from time to time. All reports, estimates, and recommendations of such consulting engineers shall be filed with the Clerk and furnished to the registered owners of any bonds upon request.~~

- M. *Accounts.* The City shall keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the wastewater system, and it will furnish complete operating and income statements upon request.
- N. *Delinquencies.* The City shall not enter into any new agreements or arrangements or make any new offers to provide wastewater system products or services at a discount from published rate schedules or provide free wastewater system products or services except: (i) for City-owned facilities, (ii) in case of emergencies, (iii) where the City exchanges services with other water systems, or (iv) where in the reasonable judgment of the City such action does not materially reduce the revenues received by the City.

(Ord. No. 1247, § 12, 3-27-2023)

3.15.130 Tax covenants.

- A. *General.* The City covenants with the owners of tax-exempt bonds that, notwithstanding any other provision of this chapter or any other instrument, it will take no action which would adversely affect the tax-exempt status of tax-exempt bonds issued hereunder under sections 103 or 148 of the Code pertaining to the exclusion of interest on the tax-exempt bonds from gross income for federal income tax purposes. The foregoing covenant shall extend throughout the term of the tax-exempt bonds. The City will execute a tax certificate dated the date of issuance and closing of tax-exempt bonds hereunder with respect to such federal tax matters.
- B. *Arbitrage covenant.* Covenant to maintain tax exemption.
1. The Mayor and/or City Administrator and other appropriate officials of the City each are hereby authorized and directed to execute from time to time such tax certificates as shall be necessary to establish that the tax-exempt bonds are not "arbitrage bonds" within the meaning of section 148 of the Code and the regulations promulgated or proposed thereunder, as the same presently exist or may from time to time hereafter be amended, supplemented or revised, and to establish that interest on the tax-exempt bonds is not and will not become includable in gross income under the Code and applicable regulations. The City covenants and certifies to and for the benefit of the bondholders that no use will be made of the proceeds of the issue and sale of the tax-exempt bonds, or any funds or accounts of the City which may be deemed to be proceeds of the tax-exempt bonds, pursuant to section 148 of the Code and applicable regulations (proposed or promulgated,) which use, if it had been reasonably expected on the date of issuance of the tax-exempt bonds, would have caused the tax-exempt bonds to be classified as "arbitrage bonds" within the meaning of section 148 of the Code. Pursuant to this covenant, the City obligates itself to comply throughout the term of the tax-exempt bonds with the requirements of section 148 of the Code and the regulations proposed or promulgated thereunder.
 2. The City further covenants and agrees to and for the benefit of the Bondholders that the City (i) will not take any action that would cause interest on the tax-exempt bonds to be or to become ineligible for the exclusion from gross income of the bondholders as provided in section 103 of the Code, (ii) will not omit to take or cause to be taken, in timely manner, any action which would cause interest on the tax-exempt bonds to be or to become ineligible for the exclusion from gross income of the bondholders as provided in section 103 of the Code, and (iii) without limiting the generality of the foregoing, (a) will not take any action which would cause the tax-exempt bonds to be a "private activity bond" within the meaning of section 141 of the Code or to fail to meet any applicable requirement of section 149 of the Code and (b) will not omit to take or cause to be taken, in timely manner, an action which would cause the tax-exempt bonds to be a "private activity bond" or to fail to meet any applicable requirement of section 149 of the Code. The Mayor and/or the City Administrator, or such other appropriate officials of the City each are hereby authorized and directed to execute from time to time such tax certificate as

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~~M. *Accounts.* The City shall keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the wastewater system, and it will furnish complete operating and income statements upon request.~~

~~N. *Delinquencies.* The City shall not enter into any new agreements or arrangements or make any new offers to provide wastewater system products or services at a discount from published rate schedules or provide free wastewater system products or services except: (i) for City-owned facilities, (ii) in case of emergencies, (iii) where the City exchanges services with other water systems, or (iv) where in the reasonable judgment of the City such action does not materially reduce the revenues received by the City.~~

~~(Ord. No. 1247, § 12, 3-27-2023)~~

~~3.15.130 Tax covenants.~~

~~A. *General.* The City covenants with the owners of tax-exempt bonds that, notwithstanding any other provision of this chapter or any other instrument, it will take no action which would adversely affect the tax-exempt status of tax-exempt bonds issued hereunder under sections 103 or 148 of the Code pertaining to the exclusion of interest on the tax-exempt bonds from gross income for federal income tax purposes. The foregoing covenant shall extend throughout the term of the tax-exempt bonds. The City will execute a tax certificate dated the date of issuance and closing of tax-exempt bonds hereunder with respect to such federal tax matters.~~

~~B. *Arbitrage covenant.* Covenant to maintain tax exemption.~~

~~1. The Mayor and/or City Administrator and other appropriate officials of the City each are hereby authorized and directed to execute from time to time such tax certificates as shall be necessary to establish that the tax-exempt bonds are not "arbitrage bonds" within the meaning of section 148 of the Code and the regulations promulgated or proposed thereunder, as the same presently exist or may from time to time hereafter be amended, supplemented or revised, and to establish that interest on the tax-exempt bonds is not and will not become includable in gross income under the Code and applicable regulations. The City covenants and certifies to and for the benefit of the bondholders that no use will be made of the proceeds of the issue and sale of the tax-exempt bonds, or any funds or accounts of the City which may be deemed to be proceeds of the tax-exempt bonds, pursuant to section 148 of the Code and applicable regulations (proposed or promulgated,) which use, if it had been reasonably expected on the date of issuance of the tax-exempt bonds, would have caused the tax-exempt bonds to be classified as "arbitrage bonds" within the meaning of section 148 of the Code. Pursuant to this covenant, the City obligates itself to comply throughout the term of the tax-exempt bonds with the requirements of section 148 of the Code and the regulations proposed or promulgated thereunder.~~

~~2. The City further covenants and agrees to and for the benefit of the Bondholders that the City (i) will not take any action that would cause interest on the tax-exempt bonds to be or to become ineligible for the exclusion from gross income of the bondholders as provided in section 103 of the Code, (ii) will not omit to take or cause to be taken, in timely manner, any action which would cause interest on the tax-exempt bonds to be or to become ineligible for the exclusion from gross income of the bondholders as provided in section 103 of the Code, and (iii) without limiting the generality of the foregoing, (a) will not take any action which would cause the tax-exempt bonds to be a "private activity bond" within the meaning of section 141 of the Code or to fail to meet any applicable requirement of section 149 of the Code and (b) will not omit to take or cause to be taken, in timely manner, an action which would cause the tax-exempt bonds to be a "private activity bond" or to fail to meet any applicable requirement of section 149 of the Code. The Mayor and/or the City Administrator, or such other appropriate officials of the City each are hereby authorized and directed to execute from time to time such tax certificate as~~

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shall be necessary to establish that the tax-exempt bonds are not and will not become "private activity bonds," that all applicable requirements of section 149 of the Code are and will be met, and that the covenant of the City contained in this section 13.15.130.B.2 will be complied with.

3. The City covenants and certifies to and for the benefit of the bondholders that: (i) the City will at all times comply with the provisions of any tax certificate; (ii) the City will at all times comply with the rebate requirements contained in section 148(f) of the Code, to the extent applicable; and (iii) no bonds or other evidences of indebtedness of the City have been or will be issued, sold or delivered within a period beginning 15 days prior to the sale of a series of tax-exempt bonds and ending 15 days following the date of delivery of and payment for a series of tax-exempt bonds.

The city hereby covenants to adopt, make, execute and enter into (and to take such actions, if any, as may be necessary to enable it to do so) any resolution or tax certificate necessary to comply with any changes in law or regulations in order to preserve the exclusion of interest on the tax-exempt bonds from gross income of the bondholders thereof for purposes of the federal income tax to the extent that it may lawfully do so. The City further covenants to (a) impose such limitations on the investment or use of moneys or investment related to the tax-exempt bonds, (b) make such payments to the United States Treasury, (c) maintain such records, (d) perform such calculations and (e) perform such other acts as may be necessary to preserve the exclusion of interest on the tax-exempt bonds from gross income of the bondholders thereof for purposes of the federal income tax and which it lawfully may do.

Pursuant to these covenants, the City obligates itself to comply with the requirements of section 103 of the Code and the regulations proposed or promulgated thereunder throughout the term of the issue of the tax-exempt bonds.

- C. **Modification of tax covenants.** The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the tax-exempt bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City's bond counsel that such modification or elimination will not adversely affect the tax exemption of interest on any tax-exempt bonds.

(Ord. No. 1247, § 13, 3-27-2023)

3.15.140 Issuance of parity bonds.

The City may issue parity bonds to provide funds for any purpose relating to the wastewater system, but only if:

- A. No event of default under this chapter or any series ordinance has occurred and is continuing;
- B. At the time of the issuance of the parity bonds there is no deficiency in the debt service account and all required deposits to all subaccounts in the reserve account have been made;
- C. There shall have been filed with the City either:
 1. A certificate of the City Administrator or the City Treasurer stating that Net Revenues (adjusted as provided in Section 3.15.140.D) for the base period were not less than 125 percent of maximum annual debt service on all then outstanding bonds, calculated as of the date the parity bonds are issued and with the proposed parity bonds treated as outstanding; or
 2. A certificate or opinion of a qualified consultant:
 - a. Stating the amount of the adjusted net revenues for each of the five fiscal years after the last fiscal year for which interest on the parity bonds is, or is expected to be, capitalized, or,

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shall be necessary to establish that the tax-exempt bonds are not and will not become "private activity bonds," that all applicable requirements of section 149 of the Code are and will be met, and that the covenant of the City contained in this section 13.15.130.B.2 will be complied with:

3. The City covenants and certifies to and for the benefit of the bondholders that: (i) the City will at all times comply with the provisions of any tax certificate; (ii) the City will at all times comply with the rebate requirements contained in section 148(f) of the Code, to the extent applicable; and (iii) no bonds or other evidences of indebtedness of the City have been or will be issued, sold or delivered within a period beginning 15 days prior to the sale of a series of tax-exempt bonds and ending 15 days following the date of delivery of and payment for a series of tax-exempt bonds.

The city hereby covenants to adopt, make, execute and enter into (and to take such actions, if any, as may be necessary to enable it to do so) any resolution or tax certificate necessary to comply with any changes in law or regulations in order to preserve the exclusion of interest on the tax-exempt bonds from gross income of the bondholders thereof for purposes of the federal income tax to the extent that it may lawfully do so. The City further covenants to (a) impose such limitations on the investment or use of moneys or investment related to the tax-exempt bonds, (b) make such payments to the United States Treasury, (c) maintain such records, (d) perform such calculations and (e) perform such other acts as may be necessary to preserve the exclusion of interest on the tax-exempt bonds from gross income of the bondholders thereof for purposes of the federal income tax and which it lawfully may do.

Pursuant to these covenants, the City obligates itself to comply with the requirements of section 103 of the Code and the regulations proposed or promulgated thereunder throughout the term of the issue of the tax-exempt bonds.

- C. **Modification of tax covenants.** The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the tax-exempt bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City's bond counsel that such modification or elimination will not adversely affect the tax exemption of interest on any tax-exempt bonds.

(Ord. No. 1247, § 13, 3-27-2023)

3.15.140 Issuance of parity bonds.

The City may issue parity bonds to provide funds for any purpose relating to the wastewater system, but only if:

- A. No event of default under this chapter or any series ordinance has occurred and is continuing;
- B. At the time of the issuance of the parity bonds there is no deficiency in the debt service account and all required deposits to all subaccounts in the reserve account have been made;
- C. There shall have been filed with the City either:
 1. A certificate of the City Administrator or the City Treasurer stating that Net Revenues (adjusted as provided in Section 3.15.140.D) for the base period were not less than 125 percent of maximum annual debt service on all then outstanding bonds, calculated as of the date the parity bonds are issued and with the proposed parity bonds treated as outstanding; or
 2. A certificate or opinion of a qualified consultant:
 - a. Stating the amount of the adjusted net revenues for each of the five fiscal years after the last fiscal year for which interest on the parity bonds is, or is expected to be, capitalized, or,

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if interest will not be capitalized, for each of the five fiscal years after the proposed parity bonds are issued; and

- b. Concluding the respective amounts of adjusted net revenues in each of the first four fiscal years described in section 3.15.140.C.2.a are at least equal to 125 percent of the annual bond debt service for each of those respective fiscal years on all outstanding bonds, with the proposed parity bonds treated as outstanding; and
 - c. Concluding the amount of adjusted net revenues in the fifth fiscal year described in section 3.15.140.C.2.a is at least equal to 125 percent of the maximum annual debt service, calculated for the period beginning with that fifth fiscal year on all then outstanding bonds, with the proposed parity bonds treated as outstanding.
- D. The City may adjust net revenues for purposes of section 3.15.140.C.1 by adding any net revenues the City Administrator or the City Treasurer calculates the City would have had during the base period because of increases in Wastewater system rates, fees and charges which have been adopted by the City and are in effect on or before the date the parity bonds are issued. The City shall adjust net revenues for the base period by eliminating the effect of any withdrawals from or deposits to the stabilization account.
- E. The qualified consultant shall calculate adjusted net revenues for purposes of section 3.15.140.C.2 as provided in this section 3.15.140.E:
1. The City shall provide the qualified consultant with the following information:
 - a. The base period, the net revenues for the base period and the amounts of any withdrawals from or deposits to the stabilization account for fiscal years that are included in the base period;
 - b. Information regarding any wastewater system utility properties that are being acquired with parity bonds and that have an earnings record;
 - c. Any changes in rates and charges which have been adopted by the City since the beginning of the base period and the dates on which they are scheduled to take effect;
 - d. Any changes in customers since the beginning of the base period; and
 - e. A description of any extensions or additions to the wastewater system that were in the process of construction at the beginning of the base period or commenced construction after the beginning of the base period, the expected date of completion of those extensions or additions, the estimated operating and capital costs of those extensions or additions, and any other changes to the revenues or operation and maintenance expenses that the City reasonably expects to result from the completion and operation of those extensions or additions.
 2. Using the information provided by the City pursuant to section 3.15.140.E.1 and any additional information the qualified consultant determines is necessary, the qualified consultant shall adjust the net revenues for the base period to eliminate the effect of any withdrawals from or deposits to the stabilization account in the manner described in section 3.15.140.D and may adjust the net revenues for the base period:
 - a. To reflect any changes that the qualified consultant projects will result from the acquisition of wastewater system utility properties that are being financed with the parity bonds and that have an earnings record;
 - b. To reflect any changes in rates and charges which have been adopted by the City and which are scheduled to take effect during the period described in section 3.15.140.C.2.a, or which

~~if interest will not be capitalized, for each of the five fiscal years after the proposed parity bonds are issued; and~~

- ~~b. Concluding the respective amounts of adjusted net revenues in each of the first four fiscal years described in section 3.15.140.C.2.a are at least equal to 125 percent of the annual bond debt service for each of those respective fiscal years on all outstanding bonds, with the proposed parity bonds treated as outstanding; and~~
 - ~~c. Concluding the amount of adjusted net revenues in the fifth fiscal year described in section 3.15.140.C.2.a is at least equal to 125 percent of the maximum annual debt service, calculated for the period beginning with that fifth fiscal year on all then outstanding bonds, with the proposed parity bonds treated as outstanding;~~
- ~~D. The City may adjust net revenues for purposes of section 3.15.140.C.1 by adding any net revenues the City Administrator or the City Treasurer calculates the City would have had during the base period because of increases in Wastewater system rates, fees and charges which have been adopted by the City and are in effect on or before the date the parity bonds are issued. The City shall adjust net revenues for the base period by eliminating the effect of any withdrawals from or deposits to the stabilization account.~~
- ~~E. The qualified consultant shall calculate adjusted net revenues for purposes of section 3.15.140.C.2 as provided in this section 3.15.140.E:~~
- ~~1. The City shall provide the qualified consultant with the following information:~~
 - ~~a. The base period, the net revenues for the base period and the amounts of any withdrawals from or deposits to the stabilization account for fiscal years that are included in the base period;~~
 - ~~b. Information regarding any wastewater system utility properties that are being acquired with parity bonds and that have an earnings record;~~
 - ~~c. Any changes in rates and charges which have been adopted by the City since the beginning of the base period and the dates on which they are scheduled to take effect;~~
 - ~~d. Any changes in customers since the beginning of the base period; and~~
 - ~~e. A description of any extensions or additions to the wastewater system that were in the process of construction at the beginning of the base period or commenced construction after the beginning of the base period, the expected date of completion of those extensions or additions, the estimated operating and capital costs of those extensions or additions, and any other changes to the revenues or operation and maintenance expenses that the City reasonably expects to result from the completion and operation of those extensions or additions.~~
 - ~~2. Using the information provided by the City pursuant to section 3.15.140.E.1 and any additional information the qualified consultant determines is necessary, the qualified consultant shall adjust the net revenues for the base period to eliminate the effect of any withdrawals from or deposits to the stabilization account in the manner described in section 3.15.140.D and may adjust the net revenues for the base period:~~
 - ~~a. To reflect any changes that the qualified consultant projects will result from the acquisition of wastewater system utility properties that are being financed with the parity bonds and that have an earnings record;~~
 - ~~b. To reflect any changes in rates and charges which have been adopted by the City and which are scheduled to take effect during the period described in section 3.15.140.C.2.a, or which~~

increase rates and charges for inflation at a level which the qualified consultant determines is reasonable;

- c. To reflect any changes in customers of the wastewater system that occurred after the beginning of the base period and prior to the date of the qualified consultant's certificate; and
- d. To reflect any changes to net revenues not included in the preceding paragraphs that are projected to result from the completion and operation of additions and extensions to the wastewater system that were under construction at the beginning of the base period or commenced construction after the beginning of the base period.

- F. The City may issue refunding bonds to refund outstanding bonds without complying with section 3.15.140.A through E above if the refunded bonds are legally defeased on the date of delivery of the refunding bonds and if the annual bond debt service on the refunding bonds does not exceed the annual bond debt service on the refunded bonds in any fiscal year by more than five percent.
- G. Bonds shall be treated as "legally defeased" for purposes of section 3.15.140.F if they are defeased as provided in section 3.15.190.
- H. All parity bonds issued in accordance with this Section 3.15.140 shall have a lien on the net revenues which is equal to the lien of all other outstanding bonds.

(Ord. No. 1247, § 14, 3-27-2023)

3.15.150 Interest subsidy bonds.

The amounts assumed to be paid on interest subsidy bonds shall be calculated as follows:

- A. When calculating annual debt service for the rate covenant in section 3.15.120.A, the City shall subtract from interest to be paid on interest subsidy bonds the federal interest subsidies on interest subsidy bonds that the city reasonably expects, at the beginning of the fiscal year, to receive during that fiscal year.
- B. When calculating annual debt service and maximum annual debt service for the tests for issuing parity bonds in section 3.15.140, the City shall subtract from the scheduled payments of interest on interest subsidy bonds the amount of federal interest subsidies that the City reasonably expects, at the time the parity bonds are issued, to receive.
- C. When calculating the amount of principal, interest and premium, if any, required to be paid in any fiscal year on a series of interest subsidy bonds to determine the tax maximum for interest subsidy bonds that are secured by a subaccount in the bond reserve account, the City shall subtract from the scheduled payments of interest on interest subsidy bonds the federal interest subsidies that the City reasonably expects, at the time the series of interest subsidy bonds is issued, to be paid to the City for the series of interest subsidy bonds. The City shall not be required to increase the amount the City is required to hold in a subaccount in the bond reserve account if federal interest subsidies are not paid when or in the amounts expected. However, if the City reduces the amount it holds in a subaccount of the bond reserve account because bonds secured by that subaccount have been paid, the City must take into account its reasonable expectations of the amount of federal interest subsidies it expects to receive at the time of reduction in determining the amount that the City must retain in a subaccount of the bond reserve account.

(Ord. No. 1247, § 15, 3-27-2023)

increase rates and charges for inflation at a level which the qualified consultant determines is reasonable;

- ~~e. To reflect any changes in customers of the wastewater system that occurred after the beginning of the base period and prior to the date of the qualified consultant's certificate; and~~
- ~~d. To reflect any changes to net revenues not included in the preceding paragraphs that are projected to result from the completion and operation of additions and extensions to the wastewater system that were under construction at the beginning of the base period or commenced construction after the beginning of the base period.~~

~~F. The City may issue refunding bonds to refund outstanding bonds without complying with section 3.15.140.A through E above if the refunded bonds are legally defeased on the date of delivery of the refunding bonds and if the annual bond debt service on the refunding bonds does not exceed the annual bond debt service on the refunded bonds in any fiscal year by more than five percent.~~

~~G. Bonds shall be treated as "legally defeased" for purposes of section 3.15.140.F if they are defeased as provided in section 3.15.190.~~

~~H. All parity bonds issued in accordance with this Section 3.15.140 shall have a lien on the net revenues which is equal to the lien of all other outstanding bonds.~~

(Ord. No. 1247, § 14, 3-27-2023)

~~3.15.150 Interest subsidy bonds.~~

~~The amounts assumed to be paid on interest subsidy bonds shall be calculated as follows:~~

~~A. When calculating annual debt service for the rate covenant in section 3.15.120.A, the City shall subtract from interest to be paid on interest subsidy bonds the federal interest subsidies on interest subsidy bonds that the city reasonably expects, at the beginning of the fiscal year, to receive during that fiscal year.~~

~~B. When calculating annual debt service and maximum annual debt service for the tests for issuing parity bonds in section 3.15.140, the City shall subtract from the scheduled payments of interest on interest subsidy bonds the amount of federal interest subsidies that the City reasonably expects, at the time the parity bonds are issued, to receive.~~

~~C. When calculating the amount of principal, interest and premium, if any, required to be paid in any fiscal year on a series of interest subsidy bonds to determine the tax maximum for interest subsidy bonds that are secured by a subaccount in the bond reserve account, the City shall subtract from the scheduled payments of interest on interest subsidy bonds the federal interest subsidies that the City reasonably expects, at the time the series of interest subsidy bonds is issued, to be paid to the City for the series of interest subsidy bonds. The City shall not be required to increase the amount the City is required to hold in a subaccount in the bond reserve account if federal interest subsidies are not paid when or in the amounts expected. However, if the City reduces the amount it holds in a subaccount of the bond reserve account because bonds secured by that subaccount have been paid, the City must take into account its reasonable expectations of the amount of federal interest subsidies it expects to receive at the time of reduction in determining the amount that the City must retain in a subaccount of the bond reserve account.~~

(Ord. No. 1247, § 15, 3-27-2023)

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3.15.160 Estimated debt service requirements for balloon payments.

The estimated debt service requirement for balloon payments shall be calculated in accordance with this section 3.15.160.

- A. *For the rate covenants.* For each balloon payment that is outstanding on August 1 of any fiscal year, the City Administrator, City Treasurer, or their designee shall prepare a schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds that balloon payment in accordance with section 3.15.160.D. The City Administrator, City Treasurer, or their designee, shall prepare that schedule as of that first day of August, and that schedule shall be used to determine compliance with the rate covenant in section 3.15.120.A for the following fiscal year.
- B. *For parity bonds.* Whenever a balloon payment will be outstanding on the date a series of parity bonds is issued, the City Administrator, City Treasurer, or their designee, shall prepare a schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds each outstanding balloon payment in accordance with section 3.15.160.D. The City Administrator, City Treasurer, or their designee shall prepare that schedule as of the date the parity bonds are sold, and that schedule shall be used to determine compliance with the tests for parity bonds in section 3.15.140.
- C. *For the reserve account requirement.* If a reserve account requirement applies to a series of bonds, whenever such series of bonds contains a balloon payment, the City Administrator, City Treasurer, or their designee shall prepare a schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds each balloon payment in that series in accordance with section 3.15.160.D. The City Administrator, City Treasurer, or their designee shall prepare that schedule as of the date the series is sold, and that schedule shall be used to determine the reserve requirement as long as that series is outstanding.
- D. Each hypothetical series of refunding bonds shall be assumed to be paid in equal annual installments of principal and interest that are sufficient to amortize the principal amount of the balloon payment over the term selected by the City Administrator, City Treasurer, or their designee; however, the City Administrator, City Treasurer, or their designee shall not select a term that exceeds the lesser of: 30 years from the date the balloon payment is originally scheduled to be paid; or, the City's estimate of the remaining weighted average useful life (expressed in years and rounded to the next highest integer) of the assets which are financed with the balloon payment. The annual installments shall be assumed to be due on the anniversaries of the date the balloon payment is originally scheduled to be paid, with the first installment due on the first anniversary of the date the balloon payment is scheduled to be paid. Each installment shall be assumed to bear interest at a rate that is estimated by the City from the bond buyer revenue bond index (or if the bond buyer revenue bond index is not available, a reasonably comparable index selected by the City) for a revenue bond with a term determined as described above. When the City prepares a schedule described in section 3.15.160.A, section 3.15.160.B, or section 3.15.160.C, the City shall use the index that is available to the City on the date the City is required to prepare that schedule.

(Ord. No. 1247, § 16, 3-27-2023)

3.15.170 Form of bonds.

The bonds issued hereunder shall be in substantially the form provided in each series ordinance for such bonds.

(Ord. No. 1247, § 17, 3-27-2023)

~~3.15.160 Estimated debt service requirements for balloon payments.~~

~~The estimated debt service requirement for balloon payments shall be calculated in accordance with this section 3.15.160.~~

- ~~A. *For the rate covenants.* For each balloon payment that is outstanding on August 1 of any fiscal year, the City Administrator, City Treasurer, or their designee shall prepare a schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds that balloon payment in accordance with section 3.15.160.D. The City Administrator, City Treasurer, or their designee, shall prepare that schedule as of that first day of August, and that schedule shall be used to determine compliance with the rate covenant in section 3.15.120.A for the following fiscal year.~~
- ~~B. *For parity bonds.* Whenever a balloon payment will be outstanding on the date a series of parity bonds is issued, the City Administrator, City Treasurer, or their designee, shall prepare a schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds each outstanding balloon payment in accordance with section 3.15.160.D. The City Administrator, City Treasurer, or their designee shall prepare that schedule as of the date the parity bonds are sold, and that schedule shall be used to determine compliance with the tests for parity bonds in section 3.15.140.~~
- ~~C. *For the reserve account requirement.* If a reserve account requirement applies to a series of bonds, whenever such series of bonds contains a balloon payment, the City Administrator, City Treasurer, or their designee shall prepare a schedule of principal and interest payments for a hypothetical series of refunding bonds that refunds each balloon payment in that series in accordance with section 3.15.160.D. The City Administrator, City Treasurer, or their designee shall prepare that schedule as of the date the series is sold, and that schedule shall be used to determine the reserve requirement as long as that series is outstanding.~~
- ~~D. Each hypothetical series of refunding bonds shall be assumed to be paid in equal annual installments of principal and interest that are sufficient to amortize the principal amount of the balloon payment over the term selected by the City Administrator, City Treasurer, or their designee; however, the City Administrator, City Treasurer, or their designee shall not select a term that exceeds the lesser of: 30 years from the date the balloon payment is originally scheduled to be paid; or, the City's estimate of the remaining weighted average useful life (expressed in years and rounded to the next highest integer) of the assets which are financed with the balloon payment. The annual installments shall be assumed to be due on the anniversaries of the date the balloon payment is originally scheduled to be paid, with the first installment due on the first anniversary of the date the balloon payment is scheduled to be paid. Each installment shall be assumed to bear interest at a rate that is estimated by the City from the bond buyer revenue bond index (or if the bond buyer revenue bond index is not available, a reasonably comparable index selected by the City) for a revenue bond with a term determined as described above. When the City prepares a schedule described in section 3.15.160.A, section 3.15.160.B, or section 3.15.160.C, the City shall use the index that is available to the City on the date the City is required to prepare that schedule.~~

~~(Ord. No. 1247, § 16, 3-27-2023)~~

~~3.15.170 Form of bonds.~~

~~The bonds issued hereunder shall be in substantially the form provided in each series ordinance for such bonds.~~

~~(Ord. No. 1247, § 17, 3-27-2023)~~

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3.15.180 Execution of bonds.

The bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Treasurer, with both signatures attested by the manual or facsimile signature of the Clerk.

Only such bonds as shall bear thereon a certificate of authentication in the forms set forth in the respective series ordinances, manually executed by the bond registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this chapter. Such certificate of authentication shall be conclusive evidence that the bonds so authenticated have been duly executed, authenticated, and delivered hereunder and are entitled to the benefits of this chapter.

In case either of the officers who shall have executed the bonds shall cease to be an officer or officers of the City before the bonds so signed shall have been authenticated or delivered by the bond registrar pursuant to the series ordinance, or issued by the City, such bonds shall be valid nevertheless and may be issued by the City with the same effect as though the persons who had executed such bonds had not ceased to be such officers.

(Ord. No. 1247, § 18, 3-27-2023)

3.15.190 Defeasance.

In the event that money and/or "governmental obligations" (as now or hereinafter defined in Idaho Code, section 57-504 or comparable statute then in effect) maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any bonds payable out of the bond fund in accordance with their terms are irrevocably deposited with an escrow agent to effect such redemption and retirement, then no further payments need be made into the bond fund for the payment of the principal of and interest on such bonds and the owner of such bonds shall cease to be entitled to any lien, benefit or security of this chapter except the right to receive the funds so set aside and pledged, and such bonds shall be deemed not to be outstanding hereunder. prior to such bonds being deemed defeased, the City shall file with the escrow agent (i) a certificate from an independent, certified public accountant to the effect that the money and the principal and interest to be received from the government obligations are calculated to be sufficient, without further reinvestment, to pay the defeased bonds when due; and (ii) an opinion of nationally recognized bond counsel that the proposed defeasance will not cause interest on any defeased tax-exempt bonds to be includable in gross income under the Code.

The City will cause the bond registrar appointed for the bonds being defeased to provide notice of defeasance of bonds to registered owners of bonds being defeased and to each party entitled to receive notice under this chapter.

(Ord. No. 1247, § 19, 3-27-2023)

3.15.200 Lost or destroyed bonds.

In case any bonds shall be lost, stolen or destroyed, the Bond registrar for such lost, stolen or destroyed bonds may authenticate and deliver a new bond or bonds of like amount, date and tenor to the owner thereof upon the owner's paying the expenses and charges of such bond registrar and the City in connection therewith and upon his filing with such bond registrar and the city evidence satisfactory to both that such bond or bonds were actually lost, stolen or destroyed and of their ownership thereof, and upon furnishing such bond registrar and the City with indemnity to their satisfaction.

(Ord. No. 1247, § 20, 3-27-2023)

~~3.15.180 Execution of bonds.~~

~~The bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and the City Treasurer, with both signatures attested by the manual or facsimile signature of the Clerk.~~

~~Only such bonds as shall bear thereon a certificate of authentication in the forms set forth in the respective series ordinances, manually executed by the bond registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this chapter. Such certificate of authentication shall be conclusive evidence that the bonds so authenticated have been duly executed, authenticated, and delivered hereunder and are entitled to the benefits of this chapter.~~

~~In case either of the officers who shall have executed the bonds shall cease to be an officer or officers of the City before the bonds so signed shall have been authenticated or delivered by the bond registrar pursuant to the series ordinance, or issued by the City, such bonds shall be valid nevertheless and may be issued by the City with the same effect as though the persons who had executed such bonds had not ceased to be such officers.~~

~~(Ord. No. 1247, § 18, 3-27-2023)~~

~~3.15.190 Defeasance.~~

~~In the event that money and/or "governmental obligations" (as now or hereinafter defined in Idaho Code, section 57-504 or comparable statute then in effect) maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire any bonds payable out of the bond fund in accordance with their terms are irrevocably deposited with an escrow agent to effect such redemption and retirement, then no further payments need be made into the bond fund for the payment of the principal of and interest on such bonds and the owner of such bonds shall cease to be entitled to any lien, benefit or security of this chapter except the right to receive the funds so set aside and pledged, and such bonds shall be deemed not to be outstanding hereunder. prior to such bonds being deemed defeased, the City shall file with the escrow agent (i) a certificate from an independent, certified public accountant to the effect that the money and the principal and interest to be received from the government obligations are calculated to be sufficient, without further reinvestment, to pay the defeased bonds when due; and (ii) an opinion of nationally recognized bond counsel that the proposed defeasance will not cause interest on any defeased tax-exempt bonds to be includable in gross income under the Code.~~

~~The City will cause the bond registrar appointed for the bonds being defeased to provide notice of defeasance of bonds to registered owners of bonds being defeased and to each party entitled to receive notice under this chapter.~~

~~(Ord. No. 1247, § 19, 3-27-2023)~~

~~3.15.200 Lost or destroyed bonds.~~

~~In case any bonds shall be lost, stolen or destroyed, the Bond registrar for such lost, stolen or destroyed bonds may authenticate and deliver a new bond or bonds of like amount, date and tenor to the owner thereof upon the owner's paying the expenses and charges of such bond registrar and the City in connection therewith and upon his filing with such bond registrar and the city evidence satisfactory to both that such bond or bonds were actually lost, stolen or destroyed and of their ownership thereof, and upon furnishing such bond registrar and the City with indemnity to their satisfaction.~~

~~(Ord. No. 1247, § 20, 3-27-2023)~~

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3.15.210 Events of default.

Each of the following events is hereby declared to be an "event of default" under this chapter:

- A. *Non-payment of principal, premium or reserve deposit.* Payment of the principal of the bonds, or any required reserve account deposit, is not made when the same becomes due and payable;
- B. *Non-payment of interest.* Payment of any installment of interest on the bonds is not made when the same becomes due and payable.
- C. *Incapable to perform.* The City for any reason is, or is rendered to be, incapable of fulfilling its obligations hereunder.
- D. *Non-performance of duties.* The City shall have failed to carry out and to perform all acts and things lawfully required to be carried out or to be performed by it under any contract relating to the revenues, to the wastewater system, or to all or any combination thereof, or otherwise, including, without limitation, this chapter, and such failure shall continue for 60 days after receipt of notice from the registered owners of at least a majority in principal amount of the bonds, then outstanding.
- E. *Failure to reconstruct.* The City discontinues or unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any revenue-producing part of the wastewater system which is destroyed or damaged and is not promptly repaired or replaced (whether such failure to repair is due to impracticability of such repair or replacement, is due to a lack of monies therefor, or for other reasons).
- F. *Appointment of receiver.* An order or decree is entered by a court of competent jurisdiction, with the consent or acquiescence of the City appointing a receiver or receivers for the wastewater system or for the revenues and any other monies subject to the lien to secure the payment of the bonds, or both such wastewater system and such monies, or if any order or decree having been entered without the consent or acquiescence of the City, is not vacated or discharged or stayed on appeal within 60 days after entry.
- G. *Default of any provisions.* The City makes any default in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the bonds authorized or referred to in this chapter on its part to be performed, and if such default continues for 60 days after written notice, specifying such default and requiring the same to be remedied, is given to the City by the registered owners of at least a majority in principal amount of the bonds then outstanding.
- H. *Remedies.* If an event of default occurs, any registered owner may exercise any remedy available at law or in equity including mandamus, where applicable. However, the bonds shall not be subject to acceleration.

(Ord. No. 1247, § 21, 3-27-2023)

3.15.220 Application of funds and moneys in event of default.

The City covenants that if an event of default shall happen and shall not have been remedied, the City, upon written demand of the registered owners of at least a majority of the principal amount of the bonds then outstanding, shall pay over or cause to be paid over to a commercial bank or other financial institution with a reported capital and surplus in excess of \$50,000,000.00 appointed by such registered owners as trustee for the benefit of the registered owners (the "trustee"), (i) forthwith, all moneys, securities and funds then held by the City in any fund under this chapter, and (ii) all net revenues as promptly as practicable after receipt thereof.

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~~3.15.210 Events of default.~~

~~Each of the following events is hereby declared to be an "event of default" under this chapter:~~

- ~~A. *Non-payment of principal, premium or reserve deposit.* Payment of the principal of the bonds, or any required reserve account deposit, is not made when the same becomes due and payable;~~
- ~~B. *Non-payment of interest.* Payment of any installment of interest on the bonds is not made when the same becomes due and payable.~~
- ~~C. *Incapable to perform.* The City for any reason is, or is rendered to be, incapable of fulfilling its obligations hereunder.~~
- ~~D. *Non-performance of duties.* The City shall have failed to carry out and to perform all acts and things lawfully required to be carried out or to be performed by it under any contract relating to the revenues, to the wastewater system, or to all or any combination thereof, or otherwise, including, without limitation, this chapter, and such failure shall continue for 60 days after receipt of notice from the registered owners of at least a majority in principal amount of the bonds, then outstanding.~~
- ~~E. *Failure to reconstruct.* The City discontinues or unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any revenue-producing part of the wastewater system which is destroyed or damaged and is not promptly repaired or replaced (whether such failure to repair is due to impracticability of such repair or replacement, is due to a lack of monies therefor, or for other reasons).~~
- ~~F. *Appointment of receiver.* An order or decree is entered by a court of competent jurisdiction, with the consent or acquiescence of the City appointing a receiver or receivers for the wastewater system or for the revenues and any other monies subject to the lien to secure the payment of the bonds, or both such wastewater system and such monies, or if any order or decree having been entered without the consent or acquiescence of the City, is not vacated or discharged or stayed on appeal within 60 days after entry.~~
- ~~G. *Default of any provisions.* The City makes any default in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the bonds authorized or referred to in this chapter on its part to be performed, and if such default continues for 60 days after written notice, specifying such default and requiring the same to be remedied, is given to the City by the registered owners of at least a majority in principal amount of the bonds then outstanding.~~
- ~~H. *Remedies.* If an event of default occurs, any registered owner may exercise any remedy available at law or in equity including mandamus, where applicable. However, the bonds shall not be subject to acceleration.~~

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~~3.15.220 Application of funds and moneys in event of default.~~

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During the continuance of an event of default, the trustee shall apply all moneys, securities, funds and net revenues received by the trustee pursuant to any right given or action taken under the provisions of this chapter and any series ordinance as follows and in the following order:

- A. *Compensation and expenses of trustee.* To the payment of the reasonable and proper compensation, charges, expenses and liabilities of the trustee;
- B. *Operating costs.* To the payment of the amounts required for reasonable and necessary operation and maintenance expenses as necessary, in the judgment of the trustee, to prevent deterioration of the wastewater system or loss of net revenues therefrom. For this purpose, the books or records and accounts of the City relating to the wastewater system shall at all times be subject to the inspection of the trustee and its representatives and agents during the continuance of such event of default;
- C. *Principal or redemption price and interest.* To the payment of the interest and principal or redemption price then due on bonds as follows:
 - 1. *First.* To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, together with accrued and unpaid interest of the bonds therefor called for redemption, and if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and
 - 2. *Second.* To the payment of the persons entitled thereto of the unpaid principal or redemption price of the bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or redemption due on such date, to the persons entitled thereto, without any discrimination or preference.
 - 3. If and whenever all overdue installments of interest on the bonds, together with the reasonably and proper charges, expenses and liabilities of the trustee, and all other sums payable by the city under this chapter, including the principal and redemption price of and accrued unpaid interest on the bonds then payable by declaration or otherwise, shall either be paid by the trustee for the account of the city, or provision satisfactory to the trustee shall be made for such payment, and all events of default under the ordinance shall be made good or secured to the satisfaction of the trustee or provision deemed by the trustee to be adequate shall be made therefor, the city shall be restored to its former positions and rights under this chapter. No such restoration of the City in its former positions and rights shall extend to or affect any subsequent events of default under this chapter or impair any right consequent thereon.

(Ord. No. 1247, § 22, 3-27-2023)

3.15.230 Amendments.

- A. The City from time to time and at any time may pass an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this chapter, for any one or more or all of the following purposes:
 - 1. To add to the covenants and agreements of the City in this chapter, other covenants and agreements thereafter to be observed, which shall not adversely affect the interests of the registered owners of the outstanding parity bonds issued hereunder, or to surrender any right or power herein reserved.

~~During the continuance of an event of default, the trustee shall apply all moneys, securities, funds and net revenues received by the trustee pursuant to any right given or action taken under the provisions of this chapter and any series ordinance as follows and in the following order:~~

- ~~A. *Compensation and expenses of trustee.* To the payment of the reasonable and proper compensation, charges, expenses and liabilities of the trustee;~~
- ~~B. *Operating costs.* To the payment of the amounts required for reasonable and necessary operation and maintenance expenses as necessary, in the judgment of the trustee, to prevent deterioration of the wastewater system or loss of net revenues therefrom. For this purpose, the books or records and accounts of the City relating to the wastewater system shall at all times be subject to the inspection of the trustee and its representatives and agents during the continuance of such event of default;~~
- ~~C. *Principal or redemption price and interest.* To the payment of the interest and principal or redemption price then due on bonds as follows:
 - ~~1. *First.* To the payment to the persons entitled thereto of all installments of interest then due in the order of the maturity of such installments, together with accrued and unpaid interest of the bonds therefor called for redemption, and if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and~~
 - ~~2. *Second.* To the payment of the persons entitled thereto of the unpaid principal or redemption price of the bonds which shall have become due, whether at maturity or by call for redemption, in the order of their due dates, and, if the amount available shall not be sufficient to pay in full all the bonds due on any date, then to the payment thereof ratably, according to the amounts of principal or redemption due on such date, to the persons entitled thereto, without any discrimination or preference.~~
 - ~~3. If and whenever all overdue installments of interest on the bonds, together with the reasonably and proper charges, expenses and liabilities of the trustee, and all other sums payable by the city under this chapter, including the principal and redemption price of and accrued unpaid interest on the bonds then payable by declaration or otherwise, shall either be paid by the trustee for the account of the city, or provision satisfactory to the trustee shall be made for such payment, and all events of default under the ordinance shall be made good or secured to the satisfaction of the trustee or provision deemed by the trustee to be adequate shall be made therefor, the city shall be restored to its former positions and rights under this chapter. No such restoration of the City in its former positions and rights shall extend to or affect any subsequent events of default under this chapter or impair any right consequent thereon.~~~~

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 - ~~1. To add to the covenants and agreements of the City in this chapter, other covenants and agreements thereafter to be observed, which shall not adversely affect the interests of the registered owners of the outstanding parity bonds issued hereunder, or to surrender any right or power herein reserved.~~~~

(Supp. No. 6)

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2. To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provision contained in this chapter, or any series ordinance authorizing bonds in regard to matters or questions arising under such ordinances as the council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the registered owners of the outstanding bonds.

Any such series ordinance may be adopted without the consent of the owners of any bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

- B. With the consent of the owners of not less than 51 percent in aggregate principal amount of the bonds at the time outstanding, the council may pass an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this chapter or of any series ordinance; provided, however, that no such series ordinance shall:

1. Extend the fixed maturity of any bonds, or reduce the rate of interest thereon, or extend the time of payment of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the registered owner of each bond so affected; or
2. Reduce the aforesaid percentage of bond owners required to approve any such series ordinance, without the consent of the owners of all the bonds then outstanding.

It shall not be necessary for the consent of bond owners under this subsection (b) to approve the particular form of any proposed series ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

- C. Upon the adoption of any series ordinance pursuant to the provisions of this section, this chapter shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the city under this chapter and all owners of bonds outstanding hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modifications and amendments, and all terms and conditions of any such series ordinance shall be deemed to be part of the terms and conditions of this chapter for any and all purposes.

- D. Bonds executed and delivered after the execution of any series ordinance passed pursuant to the provisions of this section may have a notation as to any matter provided for in such series ordinance, and if such series ordinance shall so provide, new bonds so modified as to conform, in the opinion of the council, to any modification of this chapter contained in any such series ordinance, may be prepared and delivered without cost to the owners of any affected bonds then outstanding, upon surrender for cancellation of such bonds in equal aggregate principal amounts.

- E. Exclusion of Bonds Owned by City. Bonds owned or held by or for the account of the City shall not be deemed outstanding for the purpose of any vote or consent or other action or any calculation of outstanding bonds in this chapter provided for and shall not be entitled to vote or consent or take any other action in this chapter provided for.

- F. Bonds held by securities repositories. For so long as the bonds are held in book entry only form, communications with the owners shall be made with the securities depository who is the "registered owner" of the bonds and communications with (and obtaining consents from) beneficial owners shall be made in accordance with the operational procedures of the securities depository that is the "registered owner" of the bonds.

(Ord. No. 1247, § 23, 3-27-2023)

(Supp. No. 6)

~~2. To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provision contained in this chapter, or any series ordinance authorizing bonds in regard to matters or questions arising under such ordinances as the council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the registered owners of the outstanding bonds.~~

~~Any such series ordinance may be adopted without the consent of the owners of any bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.~~

~~8. With the consent of the owners of not less than 51 percent in aggregate principal amount of the bonds at the time outstanding, the council may pass an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this chapter or of any series ordinance; provided, however, that no such series ordinance shall:~~

~~1. Extend the fixed maturity of any bonds, or reduce the rate of interest thereon, or extend the time of payment of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the registered owner of each bond so affected; or~~

~~2. Reduce the aforesaid percentage of bond owners required to approve any such series ordinance, without the consent of the owners of all the bonds then outstanding.~~

~~It shall not be necessary for the consent of bond owners under this subsection (b) to approve the particular form of any proposed series ordinance, but it shall be sufficient if such consent shall approve the substance thereof.~~

~~C. Upon the adoption of any series ordinance pursuant to the provisions of this section, this chapter shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the city under this chapter and all owners of bonds outstanding hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modifications and amendments, and all terms and conditions of any such series ordinance shall be deemed to be part of the terms and conditions of this chapter for any and all purposes.~~

~~D. Bonds executed and delivered after the execution of any series ordinance passed pursuant to the provisions of this section may have a notation as to any matter provided for in such series ordinance, and if such series ordinance shall so provide, new bonds so modified as to conform, in the opinion of the council, to any modification of this chapter contained in any such series ordinance, may be prepared and delivered without cost to the owners of any affected bonds then outstanding, upon surrender for cancellation of such bonds in equal aggregate principal amounts.~~

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~~(Ord. No. 1247, § 23, 3-27-2023)~~

(Supp. No. 6)

TITLE 4 COMMISSIONS AND BOARDS

CHAPTER 4.04 COMMUNITY HOUSING COMMISSION

4.04.010 Definitions.

As used in this chapter, the following words shall be interpreted and defined in accordance with the provisions set forth in this section:

City: The City of Ketchum, Idaho.

Commission: The City of Ketchum Community Housing Commission.

Council: The City Council of the City of Ketchum.

Members: The members of the City of Ketchum Community Housing Commission.

(Ord. 684 § 1, 1996)

4.04.020 Creation of the Commission.

There is created a Community Housing Commission for the City of Ketchum, Idaho, pursuant to Idaho Code section 50-210.

- A. The Commission shall consist of seven members, each of whom shall be appointed by the Mayor and confirmed by the majority vote of the City Council.
- B. Each member shall reside in Blaine County, Idaho. At least four members of the Commission shall be residents of the City of Ketchum, Idaho, and not more than three members of the Commission may reside outside the City limits.
- C. The seven Commission members who are first appointed shall be designated to serve the following terms: two members shall be designated for terms of one year, two members shall be designated for terms of two years, and three members shall be designated for terms of three years. After appointment of the first Commission members in staggered terms, the terms of office shall be for three years. All vacancies, including those occurring from expiration of terms, shall be filled in the same manner as used for the original appointment. The terms of office shall be staggered so that no more than three vacancies occur within one year. All vacancies shall be filled for the unexpired term.
- D. No Commission member may be an officer or employee of the City.
- E. A Commission member shall hold office until his or her successor has been appointed and confirmed by the Council.
- F. Commission members may be removed by a majority vote of the City Council. Commission members shall be selected without respect to political affiliation, and shall serve with compensation at the discretion of the Council.

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Commented [LE1]: Delete. BCHA is its own entity and governed by housing authority statutes.

- G. All Commission members shall be subject to and comply with the terms of the State of Idaho conflict of interest and ethics in government laws.

(Ord. 684 § 2, 1996; Ord. 686 § 1, 1996; Ord. 689 § 1, 1996; Ord. 704 § 1, 1997)

4.04.030 Rules, organization and meetings.

- A. The Commission shall elect its own chairperson and create and fill such other offices, subcommittees, advisory committees and neighborhood groups as it may determine necessary for the proper conduct of the affairs and business of the Commission.
- B. Meetings of the Commission shall be held when duly called by the chairperson by written or oral notice. At least one regular meeting shall be held each month for not less than nine months in a year. Additional meetings shall be scheduled as necessary.
- C. All members shall have voting rights, and a majority of voting members shall constitute a quorum. All meetings and work sessions at which there is a quorum shall be open to the public and shall comply with the state of Idaho open meeting laws.
- D. Written rules or bylaws consistent with this chapter and the laws of the State of Idaho shall be adopted for the transaction of business of the Commission.
- E. Written records of meetings, hearings, resolutions, findings, studies, recommendations and actions of the Commission shall be maintained and available to the public during regular business hours at Ketchum City Hall.

(Ord. 684 § 3, 1996)

4.04.040 Duties of the Commission.

The Commission shall hold public meetings, hearings, or work sessions, or use other means to obtain input regarding solutions to affordable housing issues within the City and countywide as those issues affect the City. The Commission has been established to make specific recommendations to the City Council on ways to make long term housing available for full time working City residents who cannot afford current housing costs. Specifically, the Commission will:

- A. Assess housing needs of the community;
- B. Make recommendations on a structure for meeting housing needs;
- C. Identify land appropriate for acquisition that is suitable to be developed as housing;
- D. Recommend a process to develop such properties for housing;
- E. Recommend a process to administrate such housing once developed; and
- F. Propose criteria and a selection process for potential buyers or renters of these housing projects.

(Ord. 684 § 4, 1996)

4.04.050 Employees and expenditures.

Any expenditures of the Commission shall be within the amounts appropriated and authorized by the Council prior to such expenditure. Paid staff positions may be created only at the discretion of the Council and shall be filled in accordance with regular City hiring procedures.

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(Supp. No. 6)

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(Ord. 684 § 5, 1996)

CHAPTER 4.08 HISTORICAL PRESERVATION COMMISSION

4.08.010 Purpose.

The purpose of this chapter is to define the composition, duties, and responsibilities of the City of Ketchum Historic Preservation Commission.

(Ord. 511 § 1, 1989; Ord. No. 1231, § 1, 1-3-2022)

4.08.020 Definitions.

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

City means The City of Ketchum, Idaho.

Historic building/site list means the list of buildings and sites deemed to be historically significant as adopted by resolution by the HPC.

Historic preservation means the research, documentation, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archaeology or culture of this state, its communities or the nation.

Historic property means any building, structure, area or site that is significant in the history, architecture, archaeology or culture of this community, the state, or the nation.

HPC means the Historic Preservation Commission of the City of Ketchum, Idaho.

(Ord. 511 § 2, 1989; Ord. No. 1231, § 1, 1-3-2022)

4.08.030 Created; appointments.

- A. There is created an HPC which shall consist of five members comprised of a maximum of three and a minimum of one member of the Planning and Zoning Commission and a maximum of four and a minimum of two members of the community who shall be appointed by the Mayor with the advice and consent of the Council.
- B. All members of the HPC shall have a demonstrated interest, competence or knowledge in history or historic preservation. The Council shall endeavor to appoint community members with professional training or experience in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation related disciplines.
- C. Initial appointments to the HPC shall be made as follows: two two-year terms, and three three-year terms. All subsequent appointments shall be made for three-year terms. HPC members may be reappointed to serve additional terms. Vacancies shall be filled in the same manner as original appointments, and the appointee shall serve for the remainder of the unexpired term.
- D. The members of the HPC may be reimbursed by the City for expenses incurred in connection with their duties and for meetings, subject to a resolution adopted by the City Council.

(Ord. 511 § 3, 1989; Ord. 512 § 1, 1989; Ord. 978 § 1, 2006; Ord. No. 1231, § 1, 1-3-2022)

(Supp. No. 6)

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(Ord. 684 § 5, 1996)

CHAPTER 4.08 ARTS AND HISTORY COMMISSION

4.08.010 Purpose.

The purpose of this chapter is to establish the Arts and History Commission of the City of Ketchum to recognize the value of arts, culture, and historic preservation in enhancing the quality of life, economic vitality, and cultural heritage of the community. The Commission is created to promote and enhance the arts, culture, and historic heritage within the City; to encourage public understanding and appreciation of Ketchum's cultural and historic heritage; to support a vibrant environment for artistic and cultural activity; and to preserve and strengthen the community's distinctive identity and sense of place.

4.08.020 Created; advisory to council.

An Arts and History Commission is created, hereinafter referred to as the Commission, which shall be advisory to the Mayor and City Council. Any land use authority or decision-making related to historic structures, historic sites, or associated property shall reside with the Planning and Zoning Commission.

4.08.030 Composition; appointments; terms.

A. The Commission shall consist of seven (7) members.

B. Members shall be appointed by the Mayor with the advice and consent of the Council.

C. The membership should, to the greatest extent practicable, include:

1. Persons with demonstrated interest, competence, or knowledge in one or more of the following:
 - a. History
 - b. Historic preservation
 - c. Archaeology
 - d. Cultural arts
 - e. Visual, performing, or literary arts
 - f. Arts administration or curation
 - g. Museum studies
 - h. Landscape architecture
 - i. Real estate or law as related to preservation or the arts
 - j. Other related disciplines.

D. Initial appointments shall be for staggered terms. Thereafter, terms shall be three (3) years.

(Supp. No. 6)

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4.08.040 Organization, officers, rules, meetings.

- A. The HPC shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this chapter. Rules of procedure and bylaws adopted by the HPC shall be available for public inspection.
- B. The HPC shall elect officers from among the HPC members. The chairperson shall preside at meetings of the HPC. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson.
- C. All meetings of the HPC shall be open to the public and follow the requirements of Idaho's open meeting laws. The HPC shall keep minutes and other appropriate written records of its resolutions, proceedings and actions.
- D. The HPC may recommend to the Council, within the limits of its funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the HPC.

(Ord. 511 § 4, 1989; Ord. No. 1231, § 1, 1-3-2022)

4.08.050 Powers, duties and responsibilities.

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

- A. Conduct a survey of local historic properties;
- B. Recommend the acquisition of fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequests or donation;
- C. Recommend methods and procedures necessary to preserve, restore, maintain and operate historic properties under the ownership or control of the City;
- D. Recommend the lease, sale, other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;
- E. Contract, with the approval of the Council, with the state or federal government, or any agency of either, or with any other organization;
- F. Cooperate with the federal, state and local governments in the pursuance of the objectives of historic preservation;
- G. Make recommendations in the planning processes undertaken by the county, the City, the state or the federal government and the agencies of these entities;
- H. Recommend ordinances and otherwise provide information for the purposes of historic preservation in the City;
- I. Promote and conduct an educational and interpretive program on historic preservation and historic properties in the City;
- J. HPC members, employees or agents of the HPC may enter private property, buildings or structures in the performance of their official duties only with the express consent of the owner or occupant;
- K. Review nominations of properties to the National Register of Historic Places for properties within the City's jurisdiction;
- L. Establish and maintain the Historic Building/Site list;
- M. Review and make decisions on Demolition and Alteration applications.

TITLE 4 - COMMISSIONS AND BOARDS
CHAPTER 4.08 HISTORICAL PRESERVATION COMMISSION

E. Members shall be limited to a total of two terms, which may be served consecutively, unless otherwise approved by resolution of the City Council.

F. Vacancies shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

G. Members may be reimbursed for expenses as approved by resolution of the City Council.

4.08.040 Organization, officers, meetings, rules.

A. The Commission shall elect a chair and vice-chair annually from among its members at the first regular meeting of each calendar year.

B. All meetings shall be open to the public and conducted in accordance with Idaho open meeting laws.

C. The Commission shall keep minutes and other appropriate records.

D. The Commission may recommend to the Council, within budgetary limits, the use of technical experts or consultants.

E. The Mayor shall designate one City staff member to the Commission. Staff shall provide administrative support, assist with agenda preparation and reports, coordinate with other City departments, and serve as a point of communication between the Commission, the Mayor, and the City Council. Additional staff or consultants may assist as necessary. Staff member shall not be a voting member of the Commission. The Commission shall not exercise administrative or supervisory authority over City staff, and all staff direction and supervision shall remain with the City Administrator or designee.

4.08.050 Powers, duties, and responsibilities.

A. Encourage and support of the arts in their broad and continually evolving forms, including, without limitation, the visual, performing, and literary arts.

B. Preserve and interpret the history and heritage of the Ketchum community, including the identity, customs, traditions, and cultural practices that define the community and are transmitted to future generations.

(Ord. 511 § 5, 1989; Ord. No. 1231, § 1, 1-3-2022)

4.08.060 Special restrictions.

Under the provisions of Idaho Code section 57-4612, the City of Ketchum, Idaho, may provide by ordinances, special conditions or restrictions for the protection, enhancement and preservation of historic properties.

(Ord. 511 § 6, 1989; Ord. No. 1231, § 1, 1-3-2022)

CHAPTER 4.12 PLANNING AND ZONING COMMISSION

4.12.010 Definitions.

As used in this chapter, the following definitions shall apply:

Appointive members: All members appointed to the Commission by the Mayor and confirmed by a majority vote of the City Council, pursuant to Idaho Code section 67-6504.

Commission: The City of Ketchum Planning and Zoning Commission created by this chapter.

Governing board: The Mayor and City Council of the City of Ketchum, Idaho.

(Ord. 1130, 2015)

4.12.020 Creation of the Commission.

A Planning and Zoning Commission for the City of Ketchum, Idaho, is hereby created pursuant to Idaho Code section 67-6504. The appointment of members, filling vacancies, residency, length of service and removal for cause shall conform to requirements contained in Idaho Code section 67-6504(a) as may be amended from time to time, unless more restrictive requirements are established in bylaws of the Commission adopted by resolution of the City Council.

(Ord. 1130, 2015)

4.12.030 Establish number of members.

The number of members to be appointed to the Commission shall be five, pursuant to Idaho Code section 67-6504(a) that provides for not less than three members and not more than 12 members.

(Ord. 1130, 2015)

4.12.040 Establish term of office.

The term of office shall be three years, pursuant to Idaho Code section 67-6504(a) that provides for not less than three years and not more than six years.

(Ord. 1130, 2015)

TITLE 4 - COMMISSIONS AND BOARDS CHAPTER 4.08 HISTORICAL PRESERVATION COMMISSION

C. Advise the City on the selection, placement, and maintenance of public art and historic installations, and encourage the incorporation of artistic and historic features into public and private development where appropriate.

D. Support and promote opportunities for residents, organizations, and artists to participate in arts and cultural activities, advance arts education, and increase public awareness of the arts and the community's history and heritage.

E. Facilitate communication and provide information and assistance to arts, cultural, and historic preservation organizations to encourage collaboration, program development, and access to funding and other resources.

F. Advise the Mayor and City Council on matters related to arts, culture, and historic preservation, and review and make recommendations on related projects, grants, and funding.

G. Encourage and support the development of arts and historic preservation programs and activities, and seek financial support for such programs, subject to approval by the City Council.

4.08.070 Public art.

A. The Commission shall coordinate with relevant City departments on the selection, installation, maintenance, and conservation of public art.

B. Public art may be located on publicly owned property or on publicly accessible private property, subject to a written agreement.

C. The Commission shall recommend public art guidelines for adoption by the Council.

D. Nothing herein shall preclude the funding of public art through grants, donations, urban renewal funds, percent-for-art programs, or other lawful sources.

4.08.080 Source of funds.

Funds to support the Commission may include, but are not limited to, general funds, percent-for-art funds, Ketchum Urban Renewal Agency funds, Local Option Tax funds, grants, donations, funding from other organizations and agencies, and other lawful sources for arts and historic preservation activities.

4.08.090 Reports.

The Commission shall make reports and recommendations to the Mayor and City Council as requested.

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4.12.050 Compliance with Idaho Code.

The bylaws of the Planning and Zoning Commission setting forth organization, rules, records, meetings, expenditures, and staff shall comply with Idaho Code section 67-6504, as may be amended from time to time. (Ord. 1130, 2015)

CHAPTER 4.16 ARTS COMMISSION

4.16.010 Purpose.

It is the purpose of this chapter and the policy of the City to recognize the value of art in public places, in order to beautify public areas, to enhance the quality of life for Ketchum citizens, to attract tourism, to enhance art education and celebration of cultural heritage, and to provide incentives to businesses to locate within the City, thus expanding Ketchum's economic base. (Ord. 1168, 2017)

4.16.020 Definitions.

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

Public art: Art in any media (temporary, long term, visual, performing, time based, etc.) that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all. (Ord. 1168, 2017)

4.16.030 General requirements.

- A. Public art may be an integral part of a structure, attached to a structure or detached from a structure within or outside of it. Public art may also be located on any publicly owned property or on publicly accessible private property upon formal written agreement with the private entity.
B. Any public art chosen shall be located in a public place with public accessibility and impact, and further shall comply with any addition to any guidelines established by Council upon recommendation of the Ketchum Arts Commission.
C. Nothing contained herein shall preclude funding City public art by matching monies, donations, or other means. (Ord. 1168, 2017)

4.16.040 Administrative responsibilities.

- A. The City designates the Ketchum Arts Commission, to be responsible for the location and selection of all public art in the City. The Ketchum Arts Commission shall make recommendations and shall seek input and advice from relevant City departments prior to installation. It shall also advise relevant City departments regarding the maintenance, repair, or other conservation of public art.

CHAPTER 4.08 HISTORICAL PRESERVATION COMMISSION

4.08.010 Purpose.

The purpose of this chapter is to define the composition, duties, and responsibilities of the City of Ketchum Historic Preservation Commission. (Ord. 511 § 1, 1989; Ord. No. 1231, § 1, 1-3-2022)

4.08.020 Definitions.

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

City means The City of Ketchum, Idaho.

Historic building/site list means the list of buildings and sites deemed to be historically significant as adopted by resolution by the HPC.

Historic preservation means the research, documentation, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archaeology or culture of this state, its communities or the nation.

Historic property means any building, structure, area or site that is significant in the history, architecture, archaeology or culture of this community, the state, or the nation.

HPC means the Historic Preservation Commission of the City of Ketchum, Idaho. (Ord. 511 § 2, 1989; Ord. No. 1231, § 1, 1-3-2022)

4.08.030 Created; appointments.

- A. There is created an HPC which shall consist of five members comprised of a maximum of three and a minimum of one member of the Planning and Zoning Commission and a maximum of four and a minimum of two members of the community who shall be appointed by the Mayor with the advice and consent of the Council.
B. All members of the HPC shall have a demonstrated interest, competence or knowledge in history or historic preservation. The Council shall endeavor to appoint community members with professional training or experience in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law, or other historic preservation related disciplines.
C. Initial appointments to the HPC shall be made as follows: two two-year terms, and three three-year terms. All subsequent appointments shall be made for three-year terms. HPC members may be reappointed to serve additional terms. Vacancies shall be filled in the same manner as original appointments, and the appointee shall serve for the remainder of the unexpired term.
D. The members of the HPC may be reimbursed by the City for expenses incurred in connection with their duties and for meetings, subject to a resolution adopted by the City Council. (Ord. 511 § 3, 1989; Ord. 512 § 1, 1989; Ord. 978 § 1, 2006; Ord. No. 1231, § 1, 1-3-2022)

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- B. Public art selected shall be consistent with the City's comprehensive plan, zoning and subdivision ordinances, and land uses contemplated therein.
- C. The Ketchum Arts Commission shall work with the City regarding the public art selected for installation in coordination with projects contained in the capital improvement program and selection of artists for public art projects.
- D. The Ketchum Arts Commission shall make reports from time to time as requested by the Mayor and/or the Council.

(Ord. 1168, 2017)

4.16.050 Source of funds.

Funds to support the Arts Commission may include, but are not limited to, general funds, percent for arts funds, Ketchum Urban Renewal Agency funds, grants, donations, and funding from other organizations and agencies.

(Ord. 1168, 2017)

4.16.060 Establishment, composition and terms.

The Commission shall consist of no more than nine members who shall receive no salary. The Mayor and Commission Chair will work together to discuss new members for appointment. Members shall be appointed by the Mayor and confirmed by the City Council, and any member may, in a like manner, be removed.

- A. The Commission shall adopt bylaws for the management and operation of meetings.
- B. In addition to the nine members, the executive director of the Ketchum Community Development Corporation (KCDC) will serve as a nonvoting member of the Commission.
- C. The term of office for each of the members shall be three years. Two consecutive three-year terms shall be the maximum allowable for a member and shall constitute a full term. Upon completion of a full term, reappointment will be allowable after a one year waiting period.

(Ord. 1168, 2017)

4.16.070 Duties and responsibilities.

The duties and responsibilities of the Commission shall be as follows:

- A. Stimulate awareness and appreciation of the importance of the arts in the broadest possible manner including, but not limited to, the review and incorporation of public art with existing and new construction (both public and private), support of visual, performing and literary arts (individuals, organizations, businesses), and both a general promotion of the arts and arts education.
- B. Encourage the preservation and growth of the City's art resources, foster the development of a receptive climate for the arts, and promote opportunities for Ketchum residents to participate in artistic activities.
- C. Provide information, encouragement, and general assistance to Ketchum's cultural organizations and artists.
- D. Promote the development of Ketchum artists, institutions and community organizations sponsoring arts activities.

~~4.08.040 Organization, officers, rules, meetings.~~

- ~~A. The HPC shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this chapter. Rules of procedure and bylaws adopted by the HPC shall be available for public inspection.~~
- ~~B. The HPC shall elect officers from among the HPC members. The chairperson shall preside at meetings of the HPC. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson.~~
- ~~C. All meetings of the HPC shall be open to the public and follow the requirements of Idaho's open meeting laws. The HPC shall keep minutes and other appropriate written records of its resolutions, proceedings and actions.~~
- ~~D. The HPC may recommend to the Council, within the limits of its funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the HPC.~~

~~{Ord. 511 § 4, 1989; Ord. No. 1231, § 1, 1-3-2022}~~

~~4.08.050 Powers, duties and responsibilities.~~

~~The HPC shall be advisory to the Council and shall be authorized to:~~

- ~~A. Conduct a survey of local historic properties;~~
- ~~B. Recommend the acquisition of fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequests or donation;~~
- ~~C. Recommend methods and procedures necessary to preserve, restore, maintain and operate historic properties under the ownership or control of the City;~~
- ~~D. Recommend the lease, sale, other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;~~
- ~~E. Contract, with the approval of the Council, with the state or federal government, or any agency of either, or with any other organization;~~
- ~~F. Cooperate with the federal, state and local governments in the pursuance of the objectives of historic preservation;~~
- ~~G. Make recommendations in the planning processes undertaken by the county, the City, the state or the federal government and the agencies of these entities;~~
- ~~H. Recommend ordinances and otherwise provide information for the purposes of historic preservation in the City;~~
- ~~I. Promote and conduct an educational and interpretive program on historic preservation and historic properties in the City;~~
- ~~J. HPC members, employees or agents of the HPC may enter private property, buildings or structures in the performance of their official duties only with the express consent of the owner or occupant;~~
- ~~K. Review nominations of properties to the National Register of Historic Places for properties within the City's jurisdiction;~~
- ~~L. Establish and maintain the Historic Building/Site list;~~
- ~~M. Review and make decisions on Demolition and Alteration applications.~~

- E. Assess the needs of the arts and of the people of Ketchum and make such information available to the Mayor and City Council and all interested agencies and persons.
- F. Review and provide recommendations and advice to the Mayor and City Council on all proposed arts related projects, events, grants, general disbursement of funds or provision of services to artists, nonprofit or for profit arts institutions or organizations.
- G. Encourage and provide direction to coordinate, partner or benefit from the arts activities or opportunities provided by other governmental agencies.
- H. Seek and encourage financial support, including grants, loans and guarantees for Ketchum Arts Commission projects subject to approval by the City Council and Mayor.

(Ord. 1168, 2017)

{Ord. 511 § 5, 1989; Ord. No. 1231, § 1, 1-3-2022}

~~4.08.060 Special restrictions.~~

~~Under the provisions of Idaho Code section 67-461257-4612, the City of Ketchum, Idaho, may provide by ordinances, special conditions or restrictions for the protection, enhancement and preservation of historic properties;~~

{Ord. 511 § 6, 1989; Ord. No. 1231, § 1, 1-3-2022}

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CHAPTER 4.12 PLANNING AND ZONING COMMISSION

4.12.010 Purpose.

The purpose of this chapter is to establish the Planning and Zoning Commission of the City of Ketchum in accordance with Idaho Code Title 67, Chapter 65, and to define its composition, duties, and responsibilities. The Commission is created to promote the orderly development of the City, to implement the goals and policies of the Comprehensive Plan, to review and make recommendations on land use, zoning, and subdivision matters; and to advise the Mayor and City Council on issues affecting the growth, development, and general welfare of the community.

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~~4.12.010 Definitions.~~

~~As used in this chapter, the following definitions shall apply:~~

~~Appointive members: All members appointed to the Commission by the Mayor and confirmed by a majority vote of the City Council, pursuant to Idaho Code section 67-6504.~~

~~Commission: The City of Ketchum Planning and Zoning Commission created by this chapter.~~

~~Governing board: The Mayor and City Council of the City of Ketchum, Idaho.~~

{Ord. 1130, 2015}

4.12.020 Creation of the Commission.

A Planning and Zoning Commission for the City of Ketchum, Idaho, is hereby created pursuant to Idaho Code section 67-6504. The appointment of members, filling vacancies, residency, length of service and removal for cause shall conform to requirements contained in Idaho Code section 67-6504(a) as may be amended from time to time, unless more restrictive requirements are established in bylaws of the Commission adopted by resolution of the City Council.

(Ord. 1130, 2015)

4.12.030 Establish number of members.

The number of members to be appointed to the Commission shall be five, pursuant to Idaho Code section 67-6504(a) that provides for not less than three members and not more than 12 members.

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(Ord. 1130, 2015)

4.12.040 Establish term of office.

The term of ~~office commissioner~~ shall be three years, pursuant to Idaho Code section 67-6504(a) that provides for not less than three years and not more than six years.

(Ord. 1130, 2015)

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4.12.050 Compliance with Idaho Code.

The bylaws of the Planning and Zoning Commission setting forth organization, rules, records, meetings, expenditures, and staff shall comply with Idaho Code section 67-6504, as may be amended from time to time. ~~1.~~

(Ord. 1130, 2015)

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CHAPTER 4.16 ARTS COMMISSION

4.16.010 Purpose.

It is the purpose of this chapter and the policy of the City to recognize the value of art in public places, in order to beautify public areas, to enhance the quality of life for Ketchum citizens, to attract tourism, to enhance art education and celebration of cultural heritage, and to provide incentives to businesses to locate within the City, thus expanding Ketchum's economic base.

(Ord. 1168, 2017)

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4.16.020 Definitions.

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

Public art: Art in any media (temporary, long term, visual, performing, time-based, etc.) that has been planned and executed with the intention of being staged in the physical public domain, usually outside and accessible to all.

(Ord. 1168, 2017)

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4.16.030 General requirements.

A. Public art may be an integral part of a structure, attached to a structure or detached from a structure within or outside of it. Public art may also be located on any publicly owned property or on publicly accessible private property upon formal written agreement with the private entity.

B. Any public art chosen shall be located in a public place with public accessibility and impact, and further shall comply with any addition to any guidelines established by Council upon recommendation of the Ketchum Arts Commission.

C. Nothing contained herein shall preclude funding City public art by matching monies, donations, or other means.

(Ord. 1168, 2017)

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4.16.040 Administrative responsibilities.

- A. The City designates the Ketchum Arts Commission, to be responsible for the location and selection of all public art in the City. The Ketchum Arts Commission shall will make recommendations and shall seek input and advice from relevant City departments prior to public art installation. It shall The Ketchum Arts Commission will also advise relevant City departments regarding the maintenance, repair, and other conservation of public art.
 - B. Public art selected shall be consistent with the City's comprehensive plan, zoning and subdivision ordinances, and land uses contemplated therein.
 - C. The Ketchum Arts Commission shall will work with the City regarding the public art selected for installation in coordination with projects contained in the capital improvement program and selection of artists for public art projects.
 - D. The Ketchum Arts Commission shall make reports from time to time as requested by the Mayor and/or the Council.
- (Ord. 1168, 2017)

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4.16.050 Source of funds.

Funds to support the Arts Commission may include, but are not limited to, general funds, percent for arts funds, Ketchum Urban Renewal Agency funds, grants, donations, and funding from other organizations and agencies.

(Ord. 1168, 2017)

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4.16.060 Establishment, composition and terms.

- A. The Commission will shall consist of no more than nine members who shall receive no salary. The Mayor and Commission Chair will work together to discuss new members for appointment. Members shall be appointed by the Mayor and confirmed by the City Council, and any member may, in a like manner, be removed.
 - A. The Commission shall adopt bylaws for the management and operation of meetings.
 - B. In addition to the nine members, the executive director of the Ketchum Community Development Corporation (KCDC) will serve as a nonvoting member of the Commission.
 - C. The term of office for each of the members shall be three years. Two consecutive three-year terms shall be the maximum allowable for a member and shall constitute a full term. Upon completion of a full term, reappointment will be allowable after a one year waiting period.
- (Ord. 1168, 2017)

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4.16.070 Duties and responsibilities.

- A. The duties and responsibilities of the Arts Commission shall be as follows:
 - A. Stimulate awareness and appreciation of the importance of the arts in the broadest possible manner including, but not limited to, the review and incorporation of public art with existing and new construction (both public and private); support of visual, performing and literary arts (individuals, organizations, businesses); and both a general promotion of the arts and arts education.

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- B. Encourage the preservation and growth of the City's art resources, foster the development of a receptive climate for the arts, and promote opportunities for Ketchum residents to participate in artistic activities.
- C. Provide information, encouragement, and general assistance to Ketchum's cultural organizations and artists.
- D. Promote the development of Ketchum artists, institutions and community organizations sponsoring arts activities.
- E. Assess the needs of the arts and of the people of Ketchum and make such information available to the Mayor and City Council and all interested agencies and persons.
- F. Review and provide recommendations and advice to the Mayor and City Council on all proposed arts related projects, events, grants, general disbursement of funds or provision of services to artists, nonprofit or for profit arts institutions or organizations.
- G. Encourage and provide direction to coordinate, partner or benefit from the arts activities or opportunities provided by other governmental agencies.
- H. Seek and encourage financial support, including grants, loans and guarantees for Ketchum Arts Commission projects subject to approval by the City Council and Mayor.

(Ord. 1168, 2017)

CHAPTER 4.30 URBAN RENEWAL AGENCY

4.30.010 Purpose.

The purpose of this chapter is to establish the Ketchum Urban Renewal Agency (KURA), an independent agency formed by the City of Ketchum in 2006, to focus on downtown revitalization, community housing, and public and private investments. The KURA operates under its own budget, bylaws, and Board of Commissioners, implementing projects identified in the Ketchum Urban Renewal Plan adopted by the City Council. Ketchum Urban Renewal Agency.

4.30.020 Establishment and Composition.

The Ketchum Urban Renewal Agency is established as an independent agency of the City of Ketchum. The Agency shall be governed by a Board of Commissioners consisting of seven members: two members of the Ketchum City Council and five additional members from the community. The members shall be appointed by the Mayor and confirmed by the City Council. Ketchum Urban Renewal Agency.

4.30.030 Powers and Duties.

The KURA shall have the authority to:

1. Implement the projects identified in the Ketchum Urban Renewal Plan.
2. Utilize tax increment financing to fund urban renewal projects.

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3. Acquire, improve, and dispose of property within the Revenue Allocation Area.
4. Enter into contracts and agreements necessary to carry out urban renewal projects.
5. Issue bonds or other obligations to finance urban renewal activities.
6. Perform all other activities authorized under Idaho Code Title 50, Chapter 20.

4.30.040 Administrative Responsibilities.

The City designates the Ketchum Urban Renewal Agency as responsible for the administration and implementation of urban renewal projects within the City. The KURA shall coordinate with relevant City departments and officials to ensure alignment with the City's comprehensive plan and zoning ordinances.

4.30.050 Funding Sources.

The KURA may utilize various funding sources to support its activities, including but not limited to:

1. Tax increment financing derived from the Revenue Allocation Area.
2. Grants and loans from federal, state, or local agencies.
3. Private investments and partnerships.
4. Donations and other contributions.

4.30.060 Reporting and Oversight.

The KURA shall provide annual reports to the City Council detailing its activities, financial status, and progress on urban renewal projects. The City Council shall have oversight authority to ensure that the KURA's activities align with the City's goals and objectives.

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