



Memo

To: Mayor Davis and Members of the Council
From: Donna Phillips, Community Development Director
Date: May 8, 2026
Agenda Item: Proposed Amendments to Title 2, 4, and 7

Agenda Item Location

New Business

Recommended Action or Motion

Staff requests from the City Council to

- Direct Staff to bring changes forward to a public hearing of the City Council; or
- To bring changes forward to a future City Council meeting for additional consideration.

Summary

Staff have been working through various proposed code amendments as a result of scrivener's errors, changes in other documents, better processes, and to bring about more clarity within the code itself. For example, in Title 2 the proposed amendment is to address the change from what was known as the "Area of City Impact" previously to what is now known as the "Area of Impact" today. Provided below is a summary of those proposed amendments and attached are the proposed redline changes that staff will provide background and more detail at the City Council meeting. Staff will be looking for directions for next steps as identified above.

Title 4 Nuisances is proposed to be amended to create a more robust definition of what is defined as a nuisance, align the quiet times with our neighboring county residents to reduce confusion, and to create an opportunity for the timely removal of the nuisance with a set process and associated fees to be included.

Title 7 Encroachment Permit is proposed to be amended to update Insurance and bond requirements and various references.

Fiscal Impact

NA

Budget Funding Source / Transfer Request

NA

Attachment

NA

City Council Only Miscellaneous Code Amendments

Title 2, 4, & 7

Title 2 Boards and Commissions: Chapter 1: Planning and Zoning Commission

2-1-1: CREATED:

A. Commission Established: Pursuant to the authority conferred by Idaho Code section 67-6504, there is hereby created a planning and zoning commission for the city.

B. Membership: The planning and zoning commission shall consist of seven (7) members, appointed and confirmed as provided by state law. Five (5) members shall be residents within the city. The sixth and seventh members may reside in that portion of unincorporated Kootenai County identified as being the city's "area of ~~city~~-impact" or within Kootenai County. A member outside of the city and not within the city's "area of ~~city~~-impact" shall have an interest in real property within the city and must remain a property owner in the city during service on the commission. All members must meet the residency requirements of state law.

1. An appointed member of a commission must have resided in the county for at least two (2) years prior to appointment and must remain a resident of the county during service on the commission.

2. No person shall serve more than two (2) full consecutive terms without specific concurrence by two-thirds ($\frac{2}{3}$) of the governing board adopted by motion and recorded in the minutes.

4-1-1: ~~DECLARATION OF NUISANCES:~~

This chapter seeks to ensure that public nuisances will be eliminated and abated promptly and efficiently.

A: Definition: For the purposes of this chapter, term "public nuisance" is defined to mean a thing, act, occupation or use of the property which is injurious to the sense, or an obstruction to the free use of property, so as essentially to interfere with the comfortable enjoyment of life or property.

B. It shall be unlawful for any "responsible party(ies)" (defined as any person or persons, corporation or other legal entity, tenant and lessee using or occupying or premises) to cause, allow, maintain or permit the existence of any nuisance on any property within the City of Hayden. Any or all parties may be held accountable. The following are hereby declared a public nuisance:

1. Diseased Animals: All diseased animals running at large.

2. Carcasses: Carcasses of animals not disposed of within twenty-four (24) hours after death as provided by law.

3. Refuse; Garbage: Accumulations of refuse or garbage, in excess of what a garbage company would haul away in a week period.
4. Noxious Weeds: All noxious weeds and other rank growth upon public or private property (as defined by the Idaho Code 22-2402-). It shall be the duty of the owner, agent or person having charge of any property within the City limits where offensive or noxious weeds or plants are growing to remove, cut and/or destroy the same.
5. All turf grass or weeds over twenty four inches (24") in height, ~~noxious weeds or plants as defined by Idaho Code 22-2402;~~ and those grasses or weeds determined to be a fire hazard by the Fire Marshal, ~~are hereby declared to be a public nuisance and shall be removed, cut and destroyed by the owner or agent of the ground or premises on which the same are located. It shall be the duty of the owner, agent or person having charge of any property within the City limits where offensive or noxious weeds or plants are growing to remove, cut and/or destroy the same.~~
6. Smoke; Fumes: The presence in the outdoor atmosphere of any contaminant or combinations thereof in such quantity or of such nature and duration and under such conditions as would be injurious to human health or welfare, to animal or plant life, or to property, or to interfere unreasonably with the enjoyment of life or property. Smoke includes but is not limited to that which is created from the burning of household garbage, and debris created from clearing, grubbing, and removal of trees.
7. Noise; Vibrations: All unnecessary noises, vibrations, or operation of a machine, to the annoyance of others between the hours of 9:00 pm and 7:00 am; except as authorized by the City Council for utility construction or service ~~emergencies between the hours of 9:00 pm and 7:00 am.~~
8. Obstructions; Excavations: Obstructions and excavations affecting the ordinary use by the public of streets, alleys, sidewalks or public grounds except under such conditions as are provided by ordinance.
9. Discarded, Junk Items: Accumulations of discarded or junked items creating an unsightly appearance.
10. Abandoned or Airtight Containers: All abandoned, unattended or discarded iceboxes, refrigerators, or other containers which have a door or lid, snap lock or other locking device which may not be released from the inside, upon public or private property.
11. Unreasonable, Unlawful Condition: No owner or occupancy of any premises within the city shall keep, cause or allow the premises, any portion of the premises or any structure on the premises, to fall into a condition that is dangerous or detrimental to life, health or property of members of the public.
12. ~~Junkyards or~~ Dumping Grounds: All places used or maintained dumping grounds or for the wrecking or disassembling of automobiles, trucks, recreational vehicles, manufactured/mobile homes, or machinery of any kind, or for the storing or leaving of any machinery or equipment used by contractors or builders or by other persons, which said places are kept or maintained so as to essentially interfere with the comfortable enjoyment

of life or property by others. This definition does not include those legally conforming junkyards as allowed by conditional use permit in accordance with Hayden City Code.

13. Places in Disrepair: All places in such a state of disrepair as to constitute a fire hazard, an attractive nuisance or a hazard of any sort.

14. Unsightly Structures: Any unsightly building, billboard or other structure, or any old, abandoned or partially destroyed building or structure commenced and left unfinished, or vacant areas in rear of stores, vacant lots, houses, buildings or premises containing trash, litter, garbage, accumulation of empty barrels, boxes, crates, packing cases, lumber or firewood not neatly piled, scrap iron, tin and other metal not neatly piled or anything whatsoever in which flies or rats insects or rodents may breed or multiply or which may be a fire danger.

~~A. Responsibility: No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant or otherwise, shall allow any partially dismantled, wrecked, junked, discarded or otherwise nonoperating or unlicensed motor vehicle, machinery, implement and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, to remain on such property longer than twenty eight (28) days unless such vehicle, equipment, etc., is maintained in an enclosed building or so located within a fenced or screened enclosure six feet (6') in height within the rear yard of the premises (not a side yard or a front yard), as defined by the zoning ordinance of the City, such that the materials are not readily visible from any public place or from any surrounding private property. Allowing such materials to remain unenclosed or unscreened in the rear yard shall constitute a nuisance. This section shall not apply with regard to any vehicle, equipment or other personal property on the premises of a business enterprise operated in a lawful place, other than in a residential district, and operated in a lawful manner, when the keeping or maintenance of such vehicle, equipment or other damaged and abandoned personal property is necessary to the operation of such business enterprise and is not in violation of other provisions of law.~~

~~B. Definition: For the purposes of this chapter, the term "nuisance" is defined to mean any condition or use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on, or the scattering over the premises of any of the following:~~

~~1. Lumber, junk, trash, or debris.~~

~~—2. Abandoned, inoperable, discarded or unused objects or equipment such as automobiles, implements and/or equipment, or machinery and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, furniture, stoves, refrigerators, freezers, cans or containers.~~

~~—3. Any compost pile, solid or liquid/semi-liquid waste which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-~~

~~carrying pests, animals or insects; provided, that the presence of earthworms in a compost pile shall not constitute a nuisance, nor shall a properly maintained garden compost facility.~~

~~—4. Keeping unsanitary matter on premises. It shall be unlawful for any person to keep or permit another to keep upon any premises deleterious or septic material which causes adverse effects upon the occupancy or use of neighboring lands. Such materials must generally be retained in containers or vessels which deny access by humans, flies, insects, rodents and animals.~~

~~5. All turf grass or weeds over twenty four inches (24") in height, noxious weeds or plants as defined by Idaho Code 22-2402; and those grasses or weeds determined to be a fire hazard by the Fire Marshal, are hereby declared to be a public nuisance and shall be removed, cut and destroyed by the owner or agent of the ground or premises on which the same are located. It shall be the duty of the owner, agent or person having charge of any property within the City limits where offensive or noxious weeds or plants are growing to remove, cut and/or destroy the same.~~

~~-C. Noise Standards:~~

-	No person may make or permit the followings:
Weekdays (M, T, W, Th, F) 9:00 pm to 6:00 am	No unnecessary or unusual noise, or operation of a machine, or harboring of an animal to the annoyance of others or any person of ordinary sensibilities; except as authorized by the City Council for utility construction or service emergencies.
Weekends (Saturday, Sunday) 9:00 pm to 7:00 am	

4-1-2: ABATEMENT-:PROCEDURE:

A. -Standards for Abatement: A violation shall be considered abated when the offending personal property is either removed from the premises, enclosed inside a building, or screened from view from both the street and adjoining property and/or odor is eliminated. For weeds, abatement will be satisfied when the weeds have been effectively sprayed as directed by the sprayed in accordance with noxious weed control or cut to height of less than six inches (6"). For all other nuisances, a violation shall be considered abated when the issue is resolved in accordance with the notice of violation. Temporary measures, such as tarps, unenclosed or unscreened areas, are not considered abatement.

B. Methods of Abatement:

1. Whenever a violation of this chapter is found, the code enforcement officer or any other official having the responsibility for the enforcement of the City of Hayden ordinances may take one or more of the following actions:
 - a. Order the violation corrected by the responsible party(ies) by removal and proper disposal of materials within a specified period ranging from one to twenty-eight (28) days. A notice of violation shall be sent via certified mailing, hand delivery, and/or posted on the property to the party responsible.
 - b. If the responsible party(ies) agrees to abate the violation but is unable to remove and/or dispose of the violation in the time frame specified in the notice of violation, they may, at the code enforcement officer's discretion, enter into a voluntary nuisance abatement agreement. To secure the voluntary nuisance abatement agreement, the responsible party(ies) must provide compelling evidence why they seek nuisance abatement relief.
 - c. Request the City of Hayden police department (or law enforcement agency having authority within the City of Hayden) to issue a uniform infraction citation for the violation of this chapter if this is the first violation within two (2) years or alternatively issue a uniform misdemeanor citation if this is a second or subsequent violation within two (2) years.
 - d. The City of Hayden may file a petition for injunctive relief against the property owner in the district court of the state of Idaho for Kootenai County seeking an order compelling compliance with this chapter.
 - e. Any additional civil remedy available to the City of Hayden.

C. Voluntary Nuisance Abatement Agreement:

1. The code enforcement officer may secure voluntary nuisance abatement by contracting with the party(ies) responsible for the violation. The voluntary nuisance abatement agreement is a contract between the city and the party(ies) responsible for the violation under which such party(ies) agrees to abate the violation within a specified time and according to specified conditions.
 - a. Time Limit Extension: An extension of the time limit for abatement or a modification of the required corrective action may be granted by the code enforcement officer. Extension or modification of the voluntary nuisance abatement agreement is allowed if the party(ies) responsible for the violation has shown due diligence and/or substantial progress in correcting the violation, but unforeseen circumstances render abatement under the original conditions unattainable.
 - b. Abatement by the City: The city may abate the violation using city forces or contract for abatement if the terms of the voluntary nuisance abatement

agreement are not complied with or in the case where the nuisance constitutes imminent danger to public health and/or safety.

c. Collection of Costs: If the terms of the voluntary nuisance abatement agreement are not met, the party(ies) responsible for the violation shall be assessed all costs and expenses of abatement including attorney fees, if incurred. If such expenses are unpaid for twenty-eight (28) days, the fees assessed may be forwarded to a collection agency to be collected in accordance with Idaho Code or the city may accept a note placing a lien on the property for the cleanup costs. In addition, if the voluntary nuisance abatement agreement is not completed, all other methods of abatement as listed in this chapter shall apply.

D. State Law Provisions: The provisions of this chapter shall not compromise or otherwise adversely affect the applicability of provisions of State law regarding the designation of nuisances, their abatement, as well as damages recovered. The costs of abatement are as determined by Idaho Code §50-334 and §50-1008.

~~A. Notice: Prior to initiating prosecution for violation of this chapter, City staff shall attempt to provide notice to the owner of the real property upon which the nuisance is located. Additional notice shall be attempted to the occupant/tenant or agent if one is known. Said notice shall describe the location of the property as accurately as possible and shall specify the nature of the nuisance and the time by which the nuisance must be abated. Said notice shall be mailed to the owner, agent or person in charge of such property, if such owner, agent or person in charge can be found. If an owner, agent or person in charge cannot be found, then notice shall be provided by posting a notice upon a conspicuous place on the premises and mailing a copy of said notice by certified mail to the owner or agent of the same at such owner's or agent's last known address.~~

E. Responsibility: No person in charge of or in control of premises, whether as owner, lessee, tenant, occupant, agent or otherwise, shall allow any nuisance to remain on such property longer than twenty-eight (28) days from the time the initial notice is provided.

~~A.F. Storage of private property in the case of a residential use, and property associated with a business enterprise operated in a lawful manner in the case of a non-residential use shall be in accordance with Hayden City Code 11-2-5(I).~~

~~B. Storage Or Removal: The owner, owners, tenants, lessees and/or occupants of any lands upon which a nuisance is located may thereafter store such nuisance vehicles, equipment or materials into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the City, or otherwise remove the vehicles, equipment or materials to a lawful storage location outside the corporate limits of the City. If the nuisance consists of weeds or other vegetative materials, it shall be removed and disposed of lawfully so as to eliminate the fire hazard created and/or the risk of spread of weed infestation.~~

~~B. — C. State Law Provisions: The provisions of this chapter shall not compromise or otherwise adversely affect the applicability of provisions of State law regarding the designation of nuisances and their abatement. (Ord. 298, 4-10-2001)~~

~~C. 4-1-3: **VIOLATION; PENALTY:**~~

~~A first violation of a provision of this chapter shall be charged as an infraction. The court may assess a fine not to exceed \$1000 for each violation. Each day that a responsible party(ies) allows a nuisance to continue on property under his or her control may be a separate violation. A new or subsequent violation within two (2) years may be charged as a misdemeanor with -the maximum penalty of \$2000 and/or six (6) months in jail.~~

If the ~~owners, tenants or occupants~~party(ies) allow said nuisance to exist or fail to abate the nuisance, they, and each of them, shall be guilty of an infraction and upon being found liable therefor shall be subject to an infraction penalty of one hundred dollars (\$100.00). Each ~~day~~week that a violation of this chapter exists may be charged as a separate infraction or misdemeanor violation, as appropriate. Any nuisance which violates this chapter and which constitutes an immediate hazard to the public ~~health~~health, or which continues to exist after a finding of guilt or liability in two (2) or more prior infraction proceedings shall constitute a misdemeanor.

7-2-8: INSURANCE AND BOND REQUIREMENTS:

A. Insurance: The City shall require the permittee to produce evidence of insurance from the insurer, certifying to the amount of coverage and to the period of coverage prior to issuing the permit. The insurer shall list the names of the insured, the type and amount of coverage, the location and operations to which the insurance applies and the date of expiration.

1. Public Liability Insurance:

a. Coverage for bodily injury and/or death for one or more persons in each occurrence shall be maintained in force for a period of one year after final acceptance of the work.

b. Coverage for property damage for each occurrence shall be maintained in force until final acceptance of the work.

c. The combined single limit amount for both bodily injury and property damage insurance shall not be less than one million dollars (\$1,000,000.00).

d. The liability policies shall cover the permittee and all subcontractors, and shall name the City, its officials, employees and agents as additional insureds.

~~e. Require subrogation waivers on the certificate of insurance~~COIs.

2. Workers' Compensation: The permittee shall submit acceptable evidence that all workers or employees at the site are covered in accordance with applicable laws pertaining to workers' compensation and shall defend and protect the City from and against all claims resulting from failure of the permittee to maintain such insurance.

3. Builders Risk: The permittee shall secure all-risk type of ~~builders~~builders' risk insurance covering all work performed, materials, equipment or other items incorporated therein and within the public right-of-way or other public place. The policy shall name the City, its officials, employees and agents as additional insureds.

B. Surety:

1. Performance: The permittee shall provide ~~a bond or other form of performance~~ surety, in a form approved by the City, in an amount equal to one hundred fifty percent (150%) of the estimated cost of installation of the improvements and restoring the area within the public right-of-way or other public place in accordance with the requirements in this chapter, including the cost of pavement replacement and all other restoration work required by this chapter, as surety for the timely completion of the work and in compliance with City standards. (Ord. 591, 3-26-2019).

~~1.2. Warranty (Guaranty):~~ The permittee shall provide warranty surety, in a form approved by the City, in an amount equal to 25% of the cost of the improvements, with restoration for a period of no less than 18 months after the City has accepted the work, as surety to ensure the work has been completed and performs in accordance with City Standards.

7-2-11: STANDARDS AND SPECIFICATIONS:

All materials to be incorporated in the work and the quality of workmanship shall meet or exceed the current minimum acceptable requirements of all of the applicable laws, codes and industry standards, to include but not be limited by the Hayden Supplemental Provisions, the Idaho State Public Works Construction standards, and the ~~Hayden Project Inspection and City's Engineering Project Certification and Quality Control Standards~~Certification requirements. The City may request that any plans and specifications required of the permit be stamped by a professional engineer licensed by the State of Idaho. Standards and specifications that have been adopted or may become adopted by the City shall have precedence. (Ord. 591, 3-26-2019)