



## NOTICE OF PUBLIC MEETING

Monday, May 18, 2020  
City Council Chambers  
680 Park Avenue  
Idaho Falls, ID 83402  
3:00 p.m.

*The public is invited to observe City Council Work Sessions. However, to observe appropriate social distancing guidelines, as recommended by the Centers for Disease Control and Prevention (CDC), the public is encouraged to view this meeting via livestream on the City's website at <https://www.idahofallsidaho.gov/429/Live-Stream>. The agenda does not include an opportunity for public interaction.*

*This meeting may be cancelled or recessed to a later time in accordance with law. If you need communication aids or services or other physical accommodations to participate or access this meeting or program of the City of Idaho Falls, you may contact City Clerk Kathy Hampton at 612-8414 or the ADA Coordinator Lisa Farris at 612-8323 as soon as possible and they will accommodate your needs.*

### COUNCIL WORK SESSION

*Times listed in parentheses are only estimates.*

#### Call to Order and Roll Call

#### Mayor:

- Acceptance and/or Receipt of Minutes
- Calendars, Announcements and Reports (10)
- Coronavirus (COVID-19) Update

#### Council:

- Liaison Reports and Council Concerns (10)

#### Office of the Mayor:

- Community Partnership Grant Discussion (20)

#### Police Department:

- Child Care Licensing Discussion (15)

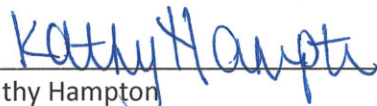
#### Public Works:

- Review of Water Tower Public Meeting and Commentary (30)

#### Human Resources:

- Compensation Presentation and Discussion (90)

DATED this 15<sup>th</sup> day of May, 2020

  
\_\_\_\_\_  
Kathy Hampton  
City Clerk



# MEMORANDUM

**FROM:** Bryce Johnson  
**DATE:** Wednesday, April 8, 2020  
**RE:** Child Care Licensing

## Council Action Desired

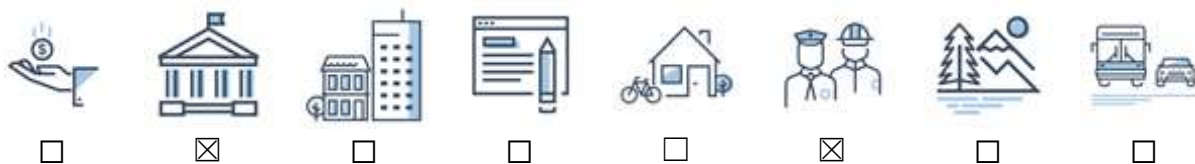
- ☒ Ordinance
 ☐ Resolution
 ☐ Public Hearing  
☐ Other Action (Approval, Authorization, Ratification, etc)

Approve the Ordinance amending the child care licensing to the City Code under a suspension of the rules requiring three complete and separate readings and direct that it be read by title and published by summary (or consider the Ordinance on the first reading and that it be read by title, or reject the Ordinance).

## Description, Background Information & Purpose

The amendment proposed to the City's daycare licensing regulations are intended to clarify what past criminal acts will limit an individual the ability to receive a day care licensing. The amendments also mirror the State's approach to background checks and update the City's daycare licensing to comply with 2019 House Bill No. 549, which was adopted in the last legislative session.

## Relevant PBB Results & Department Strategic Plan



The amendment of the door-to-door licensing regulations supports good governance community oriented results by supporting City's compliance with State law. The amendment also supports the public safety oriented result by improving the City's background check procedures.

## Interdepartmental Coordination

Interdepartmental coordination will be Police and Legal Departments.

## Fiscal Impact

The action will have no known fiscal impact to City finance.

**Legal Review**

The Legal Department drafted this Ordinance.

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, AMENDING TITLE 6, CHAPTER 3 TO CLARIFY THE VIOLATIONS OF LAW AND REGULATION THAT PROHIBIT OR REVOKE A CITY CHILD CARE LICENSE; PROVIDING SEVERABILITY, CODIFICATION, PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.

WHEREAS, children are a priceless asset of our community; and

WHEREAS, in order to regulate child care, the City established a child care ordinance pursuant to authority delegated to cities by the Idaho Code; and

WHEREAS, as part of the authority delegated to cities, the City requires a criminal background investigation of persons who will provide child care services to families; and

WHEREAS, the purpose of the criminal background investigation is, in part, to determine whether a child care worker or provider of child care should be allowed to provide such care; and

WHEREAS, recently, there has been some concern that the standards for disqualification for child care are not clear; and

WHEREAS, the City desires to make it clear to all under what conditions child care may be provided; and

WHEREAS, the changes to the City's Day Care Chapter contained in this Ordinance are meant to clarify conditions of disqualification from providing child care.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO, THAT:

**SECTION 1.** Title 6, Chapter 3, Section 3, of the City Code of the City of Idaho Falls, Idaho, is hereby amended as follows:

...

(D) APPLICATIONS FOR LICENSE: The applicant shall obtain an application for a license from the City Clerk. Once an application for a license has been submitted, the City Clerk shall review the application and determine whether or not the application is complete. If the City Clerk deems that the application is complete, then the applicant and City will arrange for all necessary inspections to obtain the certificates required by such Section in subsection (A), (B) or (C) above. Once all certifications are obtained and all requirements of either subsection (A), (B)

or (C) above and there is compliance with all provisions of this Chapter~~are met~~, the City Clerk shall issue a license. If the application is incomplete in any respect, the City Clerk shall promptly notify the applicant that the application is incomplete and shall specify the items which the City Clerk has determined are not complete or which do not otherwise comply with the provisions of subsection (A) hereof. Applications shall be made to the City Clerk in the form and manner prescribed by the City Clerk.

...

(I) RENEWALS: At least thirty (30) days before a License is to expire, the Applicant must apply for a renewal license. The fees for a renewal license are the same as set forth in subsection (H) above. Depending on the type of License, all information required under Sections 6-3-3(A), 6-3-3(B), and 6-3-3(C) and proof of compliance with this Chapter shall be provided with the application in order to qualify for the License. The following items do not need to be shown on renewal licenses:

**SECTION 2.** Title 6, Chapter 3, Section 4, of the City Code of the City of Idaho Falls, Idaho, is hereby amended as follows:

6-3-4: CERTIFICATION OF INDIVIDUAL CHILD CARE WORKERS OR ON-SITE NON-PROVIDERS:

...

(E) The term of the certificate is for ~~two~~ five (2 5) years.

**SECTION 3.** Title 6, Chapter 3, Section 6, of the City Code of the City of Idaho Falls, Idaho, is hereby amended as follows:

6-3-6: DENIAL OR REVOCATION OF CHILD CARE FACILITY LICENSE, CHILD CARE WORKER CERTIFICATION OR NON-SITE NON-PROVIDERS CERTIFICATION:

(A) The following shall constitute grounds for denial or revocation of a Child Care Facility license, Child Care Worker certification or On-Site Non-Providers documentation, or shall constitute grounds for a misdemeanor citation:

...

(B) In the event there is good cause to believe that a Child Care Facility, Child Care Worker or On-Site Non-Provider has ~~knowingly~~ violated the provisions of subsection (A) ~~hereof~~ of this Subsection, the City Clerk shall notify the licensee or certificate holder of the nature of the alleged violation and shall notify the licensee of the time and place of a hearing before the City Council to consider whether or not the licensee's license or certification should be revoked. At such hearing, the licensee shall be afforded an opportunity to produce witnesses, submit documentary evidence and to otherwise submit testimony and evidence in opposition to the proposed revocation or suspension. At the conclusion of the hearing, the City Council may suspend or revoke the license or certification for such period of time as it deems appropriate. In the event any license or

certification is revoked, the licensee or certificate holder shall not apply for or receive a new license or certification within one (1) year after the date of such revocation.

...

**SECTION 4.** Title 6, Chapter 3, Section 8, of the City Code of the City of Idaho Falls, Idaho, is hereby repealed in full and replaced with the following language:

6-3-8: LICENSES/CERTIFICATION, DENIAL, SUSPENSION OR REVOCATION: A license or certification applied for or issued under this Chapter shall be denied, suspended, or revoked:

A. Where Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner:

1. Has been found guilty of, plead guilty to, received a withheld judgment, or admitted to the elements of any offense involving neglect, any physical injury, or other abuse of a child, including the following enumerated crimes, or any substantially similar provision of a foreign criminal violation, notwithstanding the form of judgment(s):
  - a. Felony injury of a child, section 18-1501, Idaho Code.
  - b. The sexual abuse of a child under sixteen (16) years of age, Section 18- 1506, Idaho Code.
  - c. The ritualized abuse of a child under eighteen (18) years of age, Section 18-1506A, Idaho Code.
  - d. The sexual exploitation of a child, section 18-1507 or 18-1507A, Idaho Code.
  - e. Sexual abuse of a child under the age of sixteen (16) years, Section 18- 1506, Idaho Code.
  - f. Lewd conduct with a child under the age of sixteen (16) years, Section 18-1508, Idaho Code.
  - g. The sale or barter of a child for adoption or other purposes, Section 18- 1511, Idaho Code.
  - h. Murder in any degree, Section 18-4001 or 18-4003, Idaho Code.
  - i. Assault with intent to murder, Section 18-4015, Idaho Code.
  - j. Voluntary manslaughter, Section 18-4006, Idaho Code.
  - k. Rape, Section 18-6101, Idaho Code.
  - l. Incest, Section 18-6602, Idaho Code.

- m. Forcible sexual penetration by use of foreign object, Section 18-6608, Idaho Code.
  - n. Abuse, neglect, or exploitation of a vulnerable adult, Section 18-1505, Idaho Code.
  - o. Aggravated, first degree, second degree, and third-degree arson, Sections 18-801 through 18-805, Idaho Code.
  - p. Crimes against nature, Section 18-6605, Idaho Code.
  - q. Kidnapping, Sections 18-4501 through 18-4503, Idaho Code.
  - r. Mayhem, Section 18-5001, Idaho Code.
  - s. Poisoning, Section 18-4014 or 18-5501, Idaho Code.
  - t. Robbery, Section 18-6501, Idaho Code.
  - u. Stalking in the first degree, Section 18-7905, Idaho Code.
  - v. Video voyeurism, Section 18- 6609, Idaho Code.
  - w. Enticing of children, Section 18-1509 or 18-1509A, Idaho Code.
  - x. Inducing individuals under eighteen (18) years of age into prostitution, Section 18-5609, Idaho Code.
  - y. Inducing person under eighteen (18) years of age to patronize a prostitute, Section 18-5611, Idaho Code.
  - z. Any felony punishable by death or life imprisonment.
    - aa. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this subsection.
    - bb. Domestic violence, Section 18-918(2), Idaho Code.
    - cc. Any offense requiring registration on a state sex offender registry or the national sex offender registry.
    - dd. [A felony drug-related offense. **Note:** State Code would only prohibit someone with a felony drug-related offense for five years.]
    - ee. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this Subsection.
2. Been classified as a voluntary patient or involuntary patient pursuant to Title 66, Chapter 3, Idaho Code, or similar provision in another jurisdiction, unless:

- a. Such Person has been released from, and is no longer under, any form of treatment in relation to such classification, and
  - b. Such Person has been examined by at least one (1) professional licensed to evaluate mental health and such professional certifies that the Person is no longer mentally ill and presents no threat or danger to any Child. Such examination shall not be at City expense.
3. Had his or her parental rights restricted or terminated by a Child protection action under Idaho Code, Section 16-1601 et seq., or Child custody termination action under Idaho Code, Section 16-2001 et seq.
4. Where a registered sex offender resides on the Premises where Day Care services are provided.
- B. Where Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner has been found guilty of, plead guilty to, or received a withheld judgment, or admitted to the elements of any of the following enumerated crimes, or any substantially similar provision of foreign criminal violation, notwithstanding the form of judgment(s) for any offense involving neglect, any physical injury to, or other abuse of a child, or any of the following offenses or a similar provision in another jurisdiction, for a period of five (5) years immediately preceding the date of application for license or renewal:
  1. Aggravated assault, Section 18-905, Idaho Code.
  2. Aggravated battery, Section 18- 907(1), Idaho Code.
  3. Burglary, Section 18-1401, Idaho Code.
  4. Felony theft, Sections 18-2403 and 18-2407(1), Idaho Code.
  5. Forgery of a financial transaction card, Section 18-3123, Idaho Code.
  6. Fraudulent use of a financial transaction card or number, Section 18-3124, Idaho Code.
  7. Forgery or counterfeiting, Chapter 36, Title 18, Idaho Code.
  8. Misappropriation of personal identifying information, Section 18-3126, Idaho Code.
  9. Insurance fraud, Section 41-293, Idaho Code.
  10. Damage to or destruction of insured property, Section 41-294, Idaho Code.
  11. Public assistance fraud, Section 56-227, Idaho Code.



12. Provider fraud, Section 56-227A, Idaho Code.
  13. Attempted strangulation, Section 18-923, Idaho Code.
  14. Misdemeanor injury to a child, Section 18-1501(2), Idaho Code.
  15. Disseminating obscene material to minors, as defined in Sections 18-1513 through 18-1515, Idaho Code.
  16. Transporting a minor in a motor vehicle while under the influence, Section 18-1501(3), Idaho Code.
  17. Driving under the influence of alcohol, drugs, or other intoxicating substances, Section 18-8004, Idaho Code.
  18. Excessive alcohol concentration, Section 18-8004C, Idaho Code.
  19. Aggravated driving while under the influence of alcohol, drugs, or any other intoxicating substances, Section 18-8006, Idaho Code.
  20. Reckless driving, Section 49-1401(1), Idaho Code.
  21. [A misdemeanor drug-related offense. Note: State licensing would permit a misdemeanor drug offender to pass a background check.]
  22. Attempt, Section 18-306, Idaho Code, conspiracy, Section 18-1701, Idaho Code, or accessory after the fact, Section 18-205, Idaho Code, to commit any of the crimes designated in this Subsection.
- C. For any Child Care Facility, unless all applicable codes, and other pertinent provisions of all City ordinances, including health requirements herein, as far as can be determined, are being complied with.
- D. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner, where there is evidence demonstrating to the City that health or safety problems exist or are probable. No Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner shall be qualified to receive a license under this Chapter for a period of no less than one (1) year from the date of the health and/or safety problems which resulted in denial or revocation of a license under this Chapter.
- E. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; Spouse or significant other of an Owner presiding at the Premises, who has supplied false or misleading information, failed or refused to disclose any information required on the application form, or refused to authorize the police investigation required herein. Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner presiding at the Premises shall be

able to apply to receive a license under this Chapter for a period of less than six (6) months from the date of the denial, suspension, or revocation of the license under this Subsection.

- F. For any Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner presiding at the Premises, who has violated any of the provisions of this Chapter during licensure other than of 6-3-8(A) of this Chapter. No Applicant; Licensee; Owner; Operator; Child Care Worker; Resident; Volunteer, On-Site Non-Provider; spouse or significant other of an Owner presiding at the Child Care Facility shall be qualified to receive a license under this Chapter for a period of less than six (6) months from the date of the denial or revocation of the license under this Subsection.

**SECTION 4.** Savings and Severability Clause. The provisions and parts of this Ordinance are intended to be severable. If any section, sentence, clause, or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this Ordinance.

**SECTION 5.** Codification Clause. The City Clerk is instructed to immediately forward this Ordinance to the codifier of the official municipal code for proper revision of the Code.

**SECTION 6.** Publication. This Ordinance, or a summary thereof in compliance with Idaho Code, shall be published once in the official newspaper of the City, and shall take effect immediately upon its passage, approval, and publication.

**SECTION 7.** Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication.

PASSED by the City Council and APPROVED by the Mayor of the City of Idaho Falls, Idaho, this \_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF IDAHO FALLS, IDAHO

\_\_\_\_\_  
REBECCA L. NOAH CASPER, MAYOR

ATTEST:

\_\_\_\_\_  
KATHY HAMPTON, CITY CLERK

(SEAL)

STATE OF IDAHO                    )  
  ) ss:  
County of Bonneville            )

I, KATHY HAMPTON, CITY CLERK OF THE CITY OF IDAHO FALLS, IDAHO,  
DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance  
entitled, “AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO,  
AMENDING TITLE 6, CHAPTER 3 TO CLARIFY THE VIOLATIONS OF  
LAW AND REGULATION THAT PROHIBIT OR REVOKE A CITY CHILD  
CARE LICENSE; PROVIDING SEVERABILITY, CODIFICATION,  
PUBLICATION BY SUMMARY, AND ESTABLISHING EFFECTIVE DATE.”

(SEAL)

\_\_\_\_\_  
KATHY HAMPTON, CITY CLERK