

**TITLE 5**  
**PUBLIC SAFETY**

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CHAPTER 1  
**GENERAL OFFENSES**

SECTION:

5-1-1: Firearms; Weapons Discharge

5-1-1: **FIREARMS; WEAPONS DISCHARGE:**

- A. Firearms Defined: Wherever the term "firearms" is used in this section, it means any instrument used in the propulsion of shot, shell or bullets or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs, and including what are commonly known as air rifles, BB guns, slings, flippers, pellet guns, or bow and arrows.
- B. Projectile Or Explosive Weapons:
1. Prohibition: It shall be unlawful and punishable as a misdemeanor for any person to discharge any instrument that propels shot, bullets, shells, or other projectiles or harmful substances, by the action of gunpowder, compressed air, springs, elastic materials, or explosive matter, within the corporate boundaries of the city.
  2. Exception: Law enforcement officers in the proper performance of their duty, or citizens in the lawful defense of person or property are excluded. (Ord. 231-A, 1995)

## CHAPTER 2

**MINORS**

## SECTION:

5-2-1: Curfew

5-2-1: **CURFEW:**

- A. Curfew Hours: It shall be unlawful for any minor to go or to remain upon any pedestrian or vehicular thoroughfare, public place or other premises open to the public, or to operate or to ride in a vehicle at any such location between the hours of eleven o'clock (11:00) P.M. and five o'clock (5:00) A.M. on weeknights, Sunday through Thursday, with the exception of Friday and Saturday with the curfew hours being one o'clock (1:00) A.M. to five o'clock (5:00) A.M. (Ord. 241, 10-13-1997; amd. 2011 Code)
- B. Exceptions: This prohibition shall not apply to:
1. A minor accompanied by his or her parent, guardian or other adult person having care and custody of said minor.
  2. A minor upon an emergency errand or legitimate business directed or authorized by his or her parent, guardian, or other adult person having the care and custody of said minor.
  3. A minor participating in a lawful youth group activity of which the local law enforcement department has been notified.
  4. A minor who is lawfully married.
  5. A minor who is a member of the armed forces of the United States on active duty or on authorized leave from active duty.
  6. A minor having a written note, dated and signed by a parent or guardian permitting otherwise.

C. Violation; Responsibility Of Enforcement Official:

1. Any law enforcement officer finding a minor in any violation of this curfew restriction shall ascertain the name and address of the minor, warn the minor that he or she is in violation of curfew and direct the minor to proceed at once to his or her house or usual place of abode.

2. The officer shall also cause such action to be reported to the minor's parent, guardian, or person having custody or control.

3. If the minor refuses to heed such direction by the officer, or refuses to disclose his or her correct name and address, or if the minor has been advised on any previous occasion that he or she is in violation of curfew, the minor may be taken to the office of the department of law enforcement, and the parent, guardian, or other adult person having care and custody of the minor shall be requested to come and take charge of the minor.

4. If the parent, guardian, or the adult person cannot be located or fails to come and take charge of said minor, or if such parent, guardian, or adult person has been requested to come and take charge on one or more previous occasions, a petition may be filed in a court of competent jurisdiction under the juvenile corrections act of the state<sup>1</sup>, as appropriate to the circumstances. (Ord. 241, 10-13-1997)

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1. IC § 20-501 et seq.

CHAPTER 3

ANIMAL CONTROL

**ARTICLE A. DOGS**

SECTION:

- 5-3A-1: Definitions
- 5-3A-2: Animal Control Authority
- 5-3A-3: Licensing Requirements; Fees
- 5-3A-4: Kennel Licensing Requirements; Fees
- 5-3A-5: Prohibited Acts
- 5-3A-6: Vicious Dogs
- 5-3A-7: Impoundment Of Dogs
- 5-3A-8: Dogs Showing Symptoms Of Rabies Or Biting A Person
- 5-3A-9: Penalties

5-3A-1: **DEFINITIONS:** For the purpose of this article, the following terms shall have the meanings ascribed to them in this section:

**ANIMAL CONTROL AUTHORITY:** The person designated to enforce this article, his designee, or an elected city official, in the absence of a designated animal control officer.

**AT LARGE:** Any dog that is unleashed and on property open to the public or is on private property not owned, rented or leased by the owner of the dog unless permission for such presence has been obtained. No dog shall be deemed to be "at large" if it is:

A. Accompanied by and under the immediate supervision and control of the owner or other responsible person who has the dog attached to a leash.

B. A law enforcement/search and rescue working dog in the use of law enforcement/search and rescue work or training.

**COMMERCIAL  
KENNEL:**

Any place wherein the owner or keeper of dog(s) shall derive monies or any form of compensation for boarding, breeding, training, treating or handling dogs. The exception shall be law enforcement officers who board, harbor, train or handle a dog owned by a governmental agency for the purposes of law enforcement<sup>1</sup>.

**DOG:**

Any animal of the canine family, both male and female.

**HARBOR:**

Providing food, sanctuary or shelter to any dog.

**HOUSEHOLD:**

All areas inside any structure, yard or property owned, rented or leased by the owner.

**LEASH:**

Any portable device that, when attached to the collar, harness, or any other type of restraining device, is attached to a dog, which can include, but is not limited to, ropes, chains, cables, or webbing material. Such leash shall be of sufficient strength to prevent the breaking or failure of such leash by the dog. No leash shall be of a length over ten feet (10').

**NUISANCE:**

A dog that damages, defiles, soils, or defecates on private property other than that of the owner, or on public walks, streets and recreational areas, unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous or offensive conditions, or molests, attacks or interferes with domestic animals or pets on public property or private property not owned, rented or leased by the owner.

**OWNER:**

Any person, firm, association, corporation, or organization harboring, keeping, having interest

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1. See also definition of "kennel, commercial" in section 10-1-4 of this code.

in or having control or custody of any dog or dogs. If any dog found in violation of this article shall be owned by a person under the age of eighteen (18), the owner shall be deemed to be the parent or guardian of such person (or the head of household in which said person resides).

**PROPER  
ENCLOSURE:**

A fence or structure suitable to prevent the entry of young children, or any part thereof, and which is suitable to confine a vicious dog. The enclosure shall be designed to prevent the dog from escaping and preventing an adult or child from coming in contact with the dog. The structure shall comply with all building requirements of the city of Bancroft. (A chain where a person can walk within the length of the chain, or an electric collar or invisible fence is not a sufficient restraint or enclosure.)

**PROVOKING:**

To provoke, harangue, tease, torment or in any way disturb any dog with the intent to cause it to bark or attack any person.

**UNLICENSED DOG:**

Any dog not bearing a license issued by the city of Bancroft for the current year.

**VICIOUS DOG:**

Any dog which, when not physically provoked, physically attacks, wounds, bites or otherwise injures any person who is not trespassing or is not engaged in criminal activity on the property owned, rented or leased by the owner, or is protecting the owner from criminal activity on public property. Any dog which, while on the premises of and/or under the control of the owner, attacks or otherwise causes physical harm to mail carriers, utility workers, city of Bancroft employees or agents, delivery persons, or any law enforcement or emergency person while in the performance of work related duties, shall be deemed "vicious". Such dog shall be considered under the control of the owner if the dog is not sufficiently restrained so as to not attack or otherwise cause harm and the owner

has knowledge the dog may have a demeanor to attack or cause harm to any person visiting the property in a legal and lawful manner. (Ord. 255, 7-11-2005)

**5-3A-2: ANIMAL CONTROL AUTHORITY:**

- A. Appointment: The mayor, with the approval of the city council, shall appoint an animal control officer to enforce and carry out the duties and obligations as provided in this article. (Ord. 255, 7-11-2005)
- B. Enforcement: The county sheriff's office shall have the authority to enforce this article, but shall not be responsible for carrying out the duties of the animal control authority, unless a written contract is entered into by the city of Bancroft and the county sheriff's office to conduct law enforcement duties.
- C. Interference With Authority, Other Prohibited Acts: It shall be unlawful for any person to interfere with the animal control authority or other city or county official in the performance of their duties as provided by this article, to evade or attempt to evade paying the fee for claiming an impounded dog, or free or attempt to free any dog impounded under this article. (Ord. 255, 7-11-2005; amd. 2011 Code)

**5-3A-3: LICENSING REQUIREMENTS; FEES:**

- A. License Required: No person shall own, keep or harbor any dog over the age of four (4) months within the city without paying a license fee for said dog as provided in this article.
- B. Application For License:
  1. Application for license shall be made by the owner before January 31 each year, or within thirty (30) days of obtaining an unlicensed dog over the age of four (4) months. Owners of dogs that are licensed by another governmental entity and are brought into the city for more than thirty (30) days shall obtain a city dog license.
  2. Written application for a dog license shall be made to the city clerk-treasurer and shall include the name, address and telephone number of the owner, and the name, breed, color, age and sex of the



dog, and any other information pertaining to the dog (such as health, disposition or viciousness) as required by this article.

3. It shall be unlawful for any one to make a false statement in said application for said license.

C. License Term: A license issued shall be effective until December 31 of the year in which issued. (Ord. 255, 7-11-2005)

D. Issuance; Payment Of Fees:

1. A license shall be issued by the city after payment by the owner of such fee as set by the city council. Owners who fail to obtain a license by the time set forth herein shall be subject to a late fee as set by the city council, and a fine. License fees will be half price through the month of January.

2. License fees shall be waived for medical service dogs (blind, deaf, seizure, etc.) and service dogs utilized by governmental agencies for the purpose of law enforcement or search and rescue. All other licensing requirements must still be met for dogs qualifying for waived fees.

3. For dog owners who have reached the age of sixty five (65) or over, license fees shall be one-half ( $1/2$ ) the normal fees, except for the late fee which shall remain such amount as set by the city council.

E. Tags And Collars:

1. Upon payment of the license fee, the clerk-treasurer shall issue to the owner a license certificate and a metallic tag for each dog so licensed. The tag shall be changed every year, and shall be stamped thereon the year for which it is issued and the number corresponding to the number on the certificate.

2. Every owner shall be required to provide each dog with a collar to which the license must be affixed and shall see that the collar and tag are constantly worn.

3. In case a dog tag is lost or destroyed, a duplicate will be issued by the clerk-treasurer upon payment of a fee as set by the city council for such duplicate.

4. Dog tags shall not be transferable from one dog to another, and no refund shall be made after a tag has been issued.
- F. Record Of Licenses Issued: The clerk-treasurer shall keep a record of all licenses issued under the terms of this article.
- G. Temporary License: When any dog already licensed by another governmental entity shall be temporarily in the city for a period of time less than thirty (30) days, the owner or person having charge of the dog may obtain a temporary license for a fee as set by the city council. The provisions of subsection E of this section shall apply. (Ord. 255, 7-11-2005; amd. 2011 Code)
- H. Discount Sales: The city council may, after formulating a resolution, designate once a year a period of time for licensing discount sales as a means to encourage licensing of dogs. The council, by resolution, may set any fee as they deem necessary during such discount sales time. (Ord. 255, 7-11-2005)

**5-3A-4: KENNEL LICENSING REQUIREMENTS; FEES:**

- A. License Required: It shall be unlawful to keep, maintain, harbor, or possess upon the premises of any one household more than two (2) dogs over the age of four (4) months unless the owner or person in charge thereof shall obtain a kennel license.
- B. Application For License; Requirements; Deposit:
1. Application for a noncommercial kennel license shall be made to the city clerk-treasurer and must be accompanied by the written consent to such noncommercial kennel by at least seventy five percent (75%) of all the persons in possession of premises within one hundred feet (100') of the boundary lines of the premises upon which said noncommercial kennel is to be maintained.
  2. Each person signing the written consent shall be individually contacted and consent shall be verified by the animal control authority prior to providing the consent form and application to the city council for approval. (Ord. 255, 7-11-2005)
  3. Said application shall be accompanied by a deposit of a license fee as set by the city council for the first three (3) dogs and another fee as set by the city council for each dog over that number, which

deposit shall be returned to the applicant if the license is not finally issued.

- C. License Term; Fee: The license shall be in force until December 31 of the year in which issued. The licensing fee shall be as set by the city council per year regardless of the time of year the license is issued. The process must be repeated each year prior to a non-commercial license being issued. (Ord. 255, 7-11-2005; amd. 2011 Code)
- D. Individual Dog Licenses: The issuance of a noncommercial kennel license shall not obviate the necessity of obtaining an individual dog license for each dog.
- E. License Nontransferable: Noncommercial kennel licenses shall not be transferable.
- F. Additional Dogs: Whenever additions are made to the number of dogs for which a kennel license has been issued, the licensee shall, within three (3) working days, report to the clerk-treasurer and pay the required license fee. Whenever puppies are born, such puppies shall not be counted as additions until four (4) months old.
- G. Limitation On Number Of Dogs Allowed: At no time shall the number of dogs in a noncommercial kennel exceed six (6).
- H. License Revocation: In addition to any penalties that are affixed for violation of this section, the city council may revoke said license upon the third conviction of any provision of this article.
- I. Commercial Kennels Prohibited: No commercial kennel shall be allowed within the city limits. (Ord. 255, 7-11-2005)

5-3A-5: **PROHIBITED ACTS:**

- A. Chasing Vehicles Or Bicycles; Attacking Persons: No owner shall allow his dog to chase vehicles or bicycles or to allow his dog to molest, attack or interfere with any persons or other domestic animals which are on public property.
- B. Dog At Large: It shall be unlawful for any owner to allow or permit any dog, whether licensed or not, to be at large upon any street of the city or in any public place in the city, or upon the premises of

another without the consent of the person in possession of such other premises, unless:

1. Such dog be in the charge of a person and controlled by a leash not exceeding ten feet (10') in length.
  2. Such dog be humanely confined in a motor vehicle or cage with adequate ventilation.
  3. The dog is a law enforcement or search and rescue dog under the control of a law enforcement officer or designee in the performance of official duties.
- C. Noise: No owner shall keep, harbor or have in his control any dog that by loud and prolonged barking, howling, whining or any other type of noisemaking disturbs the peace and quiet of any neighborhood, or occupant of adjacent houses or properties.
- D. Nuisance: No dog shall damage, defile, soil, or defecate on any private property other than the owner's, or on public property, walks, streets or recreation areas unless such waste is immediately removed and properly disposed of by the owner. No owner shall allow any unsanitary, dangerous or offensive to the senses condition on his property relating to the ownership of any dog.
- E. Person Provoking Dog: No person shall provoke any dog with the intent to cause the dog to make any noises, bark, menace or attack any person other than in the legal and lawful defense of the owner's property or person. Law enforcement dog handlers shall be exempt from this section while in the performance of official duties with a law enforcement dog assigned to such handler. (Ord. 255, 7-11-2005)

5-3A-6: **VICIOUS DOGS:** No person shall keep, harbor, or possess a "vicious dog" as defined in section 5-3A-1 of this article, licensed or not, within the city, unless the following has been met and verified by the animal control authority:

- A. Notify City Of Ownership Of Vicious Dog:
1. Any owner who has actual knowledge that their dog, which is harbored or kept within the city, has committed any act as described in the definition of "vicious dog" in section 5-3A-1 of this article, whether such acts occurred inside or outside the city, shall immediately notify the city clerk-treasurer or animal control authority

or an appropriate law enforcement officer and provide said individuals any information in regard to such acts as is requested.

2. If any dog which lives outside the city has committed any act as described in the definition of "vicious dog" in section 5-3A-1 of this article outside the city, or the dog has been declared vicious or falls under the definition of vicious in any other outside state or local governmental entity, and said dog is brought into the city for any length of time, said owner shall notify the clerk-treasurer or other city official on the next business day of said dog's entrance into the city. The owner shall provide the clerk-treasurer any information pertaining to the dog as required by the clerk-treasurer and shall license the dog as provided in subsection 5-3A-3G of this article.

B. Confinement; Enclosure: Any dog that is a "vicious dog" as defined in section 5-3A-1 of this article shall be confined in a "proper enclosure" as defined in section 5-3A-1 of this article.

C. Control And Supervision; Muzzling:

1. If a vicious dog is removed from any proper enclosure, it shall be attached to a leash of sufficient strength as described in the definition of "leash" in section 5-3A-1 of this article and supervised by a person of sufficient strength as to physically control all actions of the vicious dog.

2. Whenever outside a proper enclosure, a vicious dog shall also have a humane muzzle attached as to prevent any biting. The owner shall prevent a vicious dog from coming into physical contact with any person who has not first been advised the dog is vicious and verbal consent has been given to let the dog approach and come within physical contact. (Ord. 255, 7-11-2005)

**5-3A-7: IMPOUNDMENT OF DOGS:**

A. Seizure Authorized: When a dog is found running at large, creating a nuisance or is in violation of section 5-3A-6 of this article, the animal control authority shall notify the owner of the dog of such violation, or if the owner is not known or cannot be notified, shall seize and impound the dog.

B. Disposal; Notice; Requirements:

1. The animal control authority may dispose of any impounded dog after five (5) business days have elapsed following notice of impoundment.

2. After a period of five (5) business days, the animal control authority may dispose of the dog by:

a. Delivering it to the owner who shall pay the impoundment fee together with licensing costs, if any; or (Ord. 255, 7-11-2005)

b. Delivering the dog for adoption to a person other than the owner or owner's family member after payment of an adoption fee and licensing costs as set by the city council; or (Ord. 255, 7-11-2005; amd. 2011 Code)

c. Destroying the dog in a humane fashion.

C. Notice Of Impoundment:

1. Notice of impoundment shall be given to the owner by certified mail or personal service by the animal control authority. Notice shall be effective upon the mailing of same by the clerk-treasurer or the time/date of any personal service. In case of an unlicensed dog, notice of impoundment shall be posted in a conspicuous place on the front door of city hall and the entrance to the impounding facility.

2. Failure to give notice as set forth in subsection C1 of this section shall not prevent disposition of any impounded dog if the animal control authority is unable, after following a good faith inquiry, to ascertain the name or location of the owner or person(s) having charge of the dog. (Ord. 255, 7-11-2005)

5-3A-8: **DOGS SHOWING SYMPTOMS OF RABIES OR BITING A PERSON:**

A. Authority To Quarantine Or Dispose:

1. The animal control authority or any local law enforcement officer shall have the authority to order the owner of any dog showing symptoms of rabies, or any dog not having rabies shots as attested by a current vaccination certificate, or any dog which has bitten any person so as to cause an abrasion of the skin, to subject such dog to

the city pound for quarantine for a period of fifteen (15) days; and if such dog shall be determined free of rabies, the same shall be returned to the owner upon payment of one-fourth ( $\frac{1}{4}$ ) of the regular fee for keeping dogs impounded. If such fee is not paid, the dog will be subject to disposal as heretofore provided.

2. However, in lieu of submitting such dog to the city pound, the owner may, at his expense, immediately admit such dog to a veterinarian for examination, and said dog shall be quarantined with the veterinarian until found not to have rabies. After the dog is placed with a veterinarian, the name, location and phone number of the veterinarian will immediately be given to the clerk-treasurer for verification.

- B. **Disposal Of Rabid Dog:** Any dog afflicted with rabies shall be disposed of immediately, either by the owner or the animal control authority. Any and all state laws pertaining to rabid animals and their disposal shall be followed. (Ord. 255, 7-11-2005)

5-3A-9: **PENALTIES:** Any violation of this article shall constitute a misdemeanor and shall be punishable, in addition to any civil liability, as listed in this section, unless the animal control authority must exercise subsection A5 or B4 of this section, of which the penalty shall then be a fine of not less than fifty dollars (\$50.00) and not more than three hundred dollars (\$300.00) and/or confinement up to six (6) months in the Caribou County Jail.

- A. **Violations Of Sections 5-3A-3 And 5-3A-4:**

1. First offense of sections 5-3A-3 and 5-3A-4 of this article shall be a warning.

2. Second offense within any continuous twelve (12) months shall have a fine of twenty five dollars (\$25.00) assessed.

3. The third offense and any subsequent offense within any continuous twelve (12) months shall have a fine of fifty dollars (\$50.00) assessed.

4. Such fines shall be in addition to license fees, if unlicensed, and a daily care and impound fee of ten dollars (\$10.00) per day if the dog has been impounded by or for the city.

5. All license fees, fines and impound fees shall be paid to the clerk-treasurer. Failure to pay the same within ten (10) days shall result in an Idaho uniform citation being issued to the owner for the violation, and the same shall be heard in the magistrate's court of Caribou County.

B. Violations Of Sections 5-3A-2, 5-3A-5, 5-3A-7 And 5-3A-8:

1. First offense of section 5-3A-5 of this article shall be a warning.
2. Second offense and any subsequent violation within any twelve (12) continuous months of section 5-3A-5 of this article shall be assessed a fine of fifty dollars (\$50.00).
3. All offenses of sections 5-3A-2, 5-3A-7, and 5-3A-8 of this article shall be assessed a fine of fifty dollars (\$50.00).
4. All license fees, fines and impound fees shall be paid to the clerk-treasurer. Failure to pay the same within ten (10) days shall result in an Idaho uniform citation being issued to the owner for the violation, and the same shall be heard in the magistrate's court of Caribou County.

C. Violations Of Section 5-3A-6:

1. Any violations of section 5-3A-6, "Vicious Dogs", of this article shall be punishable by a fine of not less than seventy five dollars (\$75.00) and not more than three hundred dollars (\$300.00) and up to six (6) months' confinement in the Caribou County Jail.
2. The owner of a vicious dog shall be liable for any and all actions of said dog that cause damages to any person or the property of any person other than the owner.
3. For the second and/or subsequent violations of this subsection, the court may, in the interest of public safety, order the owner to have the vicious dog destroyed or may direct the appropriate authorities to destroy the dog. (Ord. 255, 7-11-2005)



CHAPTER 3  
ANIMAL CONTROL  
**ARTICLE B. LIVESTOCK**

SECTION:

- 5-3B-1: Livestock Defined
- 5-3B-2: Keeping Livestock
- 5-3B-3: Permit Requirements
- 5-3B-4: Existing Uses
- 5-3B-5: Swine Prohibited
- 5-3B-6: Running At Large Prohibited
- 5-3B-7: Penalty

5-3B-1:     **LIVESTOCK DEFINED:** For the purpose of this article, "livestock" shall be defined as cows, sheep, horses, goats, poultry, rabbits, pigs, hogs, ducks, and geese. (2011 Code)

5-3B-2:     **KEEPING LIVESTOCK:** It is hereby deemed unlawful to keep livestock within the city limits, except as hereinafter provided. (2011 Code)

5-3B-3:     **PERMIT REQUIREMENTS:** A permit for the keeping of livestock is required and shall be issued to residents of the city if they comply with the following regulations and conditions:

- A.     Permission Of Adjoining Property Owners: That permission of seventy five percent (75%) of neighbors within a three hundred foot (300') radius of the place where the animals are to be kept is obtained and written confirmation of the permission is presented to the city council.

- B. Council Approval: That the city council reviews each livestock permit to keep livestock within the city limits, and either approves or rejects on each application's merits.
- C. Annual Council Review: The city council shall conduct an annual review of the livestock permits to monitor the number and kinds of livestock that are kept within the city limits and according to the permit application. (2011 Code)

5-3B-4: **EXISTING USES:** Any person who heretofore has kept livestock within the city limits shall have the right to continue to do so; provided, however, that should any such landowner or city resident fail to exercise his right to keep such animals for a period of sixty (60) days or more, such grandfathered right shall be deemed forfeited and future harboring of livestock shall require the permit as set forth herein. Provided further, however, that for those types of livestock which traditionally are seasonally pastured at places other than within the city limits, such sixty (60) day time limitation shall not run and apply during the period when said livestock are being pastured seasonally elsewhere. (2011 Code)

5-3B-5: **SWINE PROHIBITED:** No person may keep swine within the limits of the city. (2011 Code)

5-3B-6: **RUNNING AT LARGE PROHIBITED:** It shall be unlawful for the owner of any livestock to allow the same to run at large. Any livestock shall be kept on the owner's property by means of an adequate fence to hold said livestock on said owner's premises or by means of a cord, chain, or rope of such length to restrict the animal to the owner's property. The provisions as to fencing contained herein shall apply to fowl which traditionally are not and cannot be collared and leashed. (2011 Code)

5-3B-7: **PENALTY:** Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be subject to penalty as provided in section 1-4-1 of this code. (2011 Code)

CHAPTER 4  
**FIREWORKS**

SECTION:

5-4-1: Fireworks Prohibited

5-4-2: Penalty

5-4-1: **FIREWORKS PROHIBITED:** It shall be unlawful for any person to discharge, fire, use, or have in his possession; or to store, sell or offer for sale, at wholesale or retail, within the city, any "fireworks" as defined in Idaho Code section 39-2602. (2011 Code)

5-4-2: **PENALTY:** Any person violating any provision of this chapter shall be subject to penalty as provided in section 1-4-1 of this code. (2011 Code)

## CHAPTER 5

**PARADES AND PUBLIC ASSEMBLIES**

## SECTION:

- 5-5- 1: Definitions
- 5-5- 2: Permit Required; Application; Fee
- 5-5- 3: Exceptions To Permit Requirements
- 5-5- 4: Standards For Issuance
- 5-5- 5: Notice Of Determination Of Application
- 5-5- 6: Conditional Approval
- 5-5- 7: Contents Of Permit Application
- 5-5- 8: Duties Of Permittee
- 5-5- 9: Time, Place And Manner Restrictions
- 5-5-10: Appeal Procedure
- 5-5-11: Emergency Cancellation Or Termination
- 5-5-12: Violations; Penalties

5-5-1: **DEFINITIONS:** The following words and phrases, when used in this chapter, shall have the meanings set out in this section:

**APPLICANT:** Any person applying for a "permit", as defined in this section. The true applicant for any such permit shall be the sponsoring entity whether such sponsoring entity is an individual person, a corporation, a partnership or other legal entity of any type.

**PARADE:** Any dash, demonstration, march, marathon, parade, procession, race, rally, or like activity consisting of persons, animals, or vehicles, or a combination thereof, within the city with an intent of attracting public attention which has a tendency to interfere with the normal flow or regulation of traffic upon the streets.

- PERMIT:** Permits are required by this chapter for a "parade" or "public assembly", as defined in this section. An approved application will serve as the permit.
- PERMITTEE:** Any person, firm, partnership, association, corporation, company or organization of any kind granted a permit for any activity regulated by this chapter.
- PERSON:** Any person, firm, partnership, association, corporation, company or organization of any kind.
- PUBLIC ASSEMBLY:** Any demonstration or rally of more than twenty five (25) persons for a common purpose as a result of prior planning that interferes with or has a tendency to interfere with the normal flow or regulation of pedestrian or vehicular traffic or occupies any street or other public property managed by the city of Bancroft.
- SIDEWALK:** Any area or way set aside or open to the general public for the purpose of pedestrian or nonmotorized traffic, whether or not it is paved.
- STREET:** Any place or way set aside or open to the general public for the primary purpose of vehicular traffic, including any berm or shoulder, parkway, right of way, or median strip thereof. (2011 Code)

**5-5-2: PERMIT REQUIRED; APPLICATION; FEE:**

- A. **Permit Required:** No person shall engage in, participate in, or conduct any "parade" or "public assembly" as defined by this chapter unless a permit has been issued by the city clerk-treasurer for the date and location involved.
- B. **Application Date And Fee:** A complete application must be made thirty (30) days in advance of the event. Fees to cover the expenses incidental to the event will be set by the city council. Fees are refundable if the application is withdrawn the same day it is submitted. (2011 Code)

5-5-3:           **EXCEPTIONS TO PERMIT REQUIREMENTS:** This chapter shall not apply to the following:

- A.    Community block watch events.
- B.    Funeral processions.
- C.    Government agencies acting within the scope of their function.
- D.    Park activities otherwise regulated by ordinance.
- E.    Students going to and from classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities.
- F.    Churches.
- G.    Other activities sponsored by the city in its municipal capacity. (2011 Code)

5-5-4:           **STANDARDS FOR ISSUANCE:**

- A.    Statement Of Purpose: The purpose of this chapter is to set forth the standards of issuance for a parade or public assembly permit. It is further the purpose of this chapter to:
  - 1. Assure that emergency services such as police, fire, and ambulance services are available for a parade or public assembly taking place within the corporate limits of the city.
  - 2. Assure that emergency services such as police, fire, and ambulance services are not unreasonably inhibited in their ability to travel on and to cross public streets or property used by parades or public assemblies.
  - 3. Assure that private business activities in Bancroft are not unreasonably impacted by parades or public assemblies.
  - 4. Assure that traffic on public streets is not unreasonably disturbed or disrupted by parades or public assemblies.
  - 5. Assure that public safety can be maintained.

6. Assure that public and private properties can be protected from harm.
- B. Permit Issuance: Only one parade or public assembly permit will be granted for the same time and/or location. The clerk-treasurer shall issue the permit on a first come, first served basis.
- C. Application Form; Approval: Affected city departments may request such information from the applicant as necessary to demonstrate compliance with applicable provisions of law. Information may be requested on the permit application form, through written instructions or through oral or written inquiries communicated from the city clerk-treasurer, addressed to the applicant. The time for considering the permit may be extended by the time taken by the applicant in responding satisfactorily to any inquiry, not to exceed five (5) business days.
- D. Discrimination Prohibited: There shall be no discrimination in granting, denying, or conditionally granting permits under this chapter based upon statutorily protected or constitutionally guaranteed rights.
- E. Permit Denial: The clerk-treasurer may deny a permit if the applicant or the person on whose behalf the application is made has on prior occasions made material misrepresentations regarding the nature or scope of a parade or public assembly previously permitted, or has violated the terms of prior permits issued to or on behalf of the applicant; or if the applicant or the person on whose behalf the application was made has on prior occasions damaged city property and not paid in full for such damage.
- F. Additional Reasons For Denial; Halting Of Assembly: A permit may be denied where the clerk-treasurer determines that the parade would unreasonably disrupt traffic or public services, or where there is clear and convincing evidence that the applicant, not opponents of the applicant, intends to engage in violence, and that the time, place, and manner of the event cannot be adjusted such that the city will be able to control such potential violence without injury to bystanders or participants. A parade or public assembly may be halted by the county sheriff if at any time participants fail to conform to the permit or if an imminent risk of violence arises in the course of the parade or public assembly. No permit shall be issued if the applicant fails to demonstrate compliance with all applicable provisions of law, including the requirements of this chapter and any requirement of the state

of Idaho, or Idaho department of transportation, if applicable. (2011 Code)

**5-5-5: NOTICE OF DETERMINATION OF APPLICATION:** The city clerk-treasurer shall act upon the application for a permit within seven (7) business days after the filing thereof accompanied by the applicant's submission of complete information. The clerk-treasurer shall make a reasonable effort to notify the applicant, by facsimile, personal service, or certified mail, of any notice of denial or conditional approval and the reason(s) for denial or conditions as soon as practical upon the clerk-treasurer's decision. Such decision shall be made with a promptness adequate to allow an opportunity for appeal pursuant to provisions of this chapter. (2011 Code)

**5-5-6: CONDITIONAL APPROVAL:** Upon reasonable grounds, the city clerk-treasurer may authorize the conduct of the parade or public assembly requiring a permit at a date, time, place or in a manner different from that named by the applicant and may tender a conditional permit setting forth proposed modified terms which differ from those set forth in the application. An applicant desiring to accept a conditional permit shall, within five (5) days after notice of the action of the clerk-treasurer, file a written notice of acceptance with the clerk-treasurer. If the applicant fails to provide written notice of acceptance of the conditional permit within the time prescribed, the parade or public assembly shall not be held. (2011 Code)

**5-5-7: CONTENTS OF PERMIT APPLICATION:** Each permit application shall state at least the following, and the applicant shall adhere to and be bound by the commitments made in an application submittal:

- A. The full name, street address, telephone number, e-mail address, and facsimile number, if any, of the person or organization sponsoring the parade or public assembly.
- B. The name, street address, telephone number, e-mail address, and facsimile number, if any, of the person in charge of the parade or public assembly.
- C. The date when the parade or public assembly is to be conducted.



- D. The name of the parade or public assembly, if any.
- E. The time the parade or public assembly will begin to form, and the time the parade or public assembly will begin movement.
- F. The place the parade or public assembly will form.
- G. The route of the parade or public assembly selected.
- H. The place the parade or public assembly will disband.
- I. The approximate number of participants, not including spectators, who will participate in the parade or public assembly and the maximum number who will be allowed to participate.
- J. The number of marchers, animals, floats, automobiles, or other vehicles in the parade or public assembly.
- K. The prior parade or public assembly history of the applicant within Bancroft, or the state of Idaho history if no Bancroft history exists, including the number of permits applied for previously.
- L. A thoroughly documented plan for controlling disorderly or violent conduct, if such might reasonably be expected, a plan for maintaining traffic flow to commercial and other establishments, a plan for sanitary and medical facilities, and for cleanup.
- M. Attach the required certificate of insurance as set forth in this chapter.
- N. Identify any requested exception from any requirement established by this chapter premised upon the unique circumstances associated with the parade/public assembly for which application has been made.
- O. Any other reasonable information required by the clerk-treasurer to enable them to understand the impacts of the proposed parade or public assembly and to allow the clerk-treasurer to perform duties described herein.
- P. When approval is given by the city for the parade or assembly, the permittee will be required to obtain written permission from the Idaho transportation district and/or county highway district as submitted to the city. (2011 Code)

**5-5-8: DUTIES OF PERMITTEE:**

- A. **Compliance Required:** A permittee hereunder shall comply with all permit conditions and with all federal, state and local laws.
- B. **Requirements And Rights Of Applicant:** The following shall apply to the parade or public assembly application:

**1. Insurance:**

a. Proof of general liability insurance from an insurance company authorized to do business in Idaho. The city shall be named as an additional insured. Comprehensive general liability shall be a minimum combined single limit of not less than one million dollars (\$1,000,000.00) for bodily or personal injury, death or property damage or loss as the result of any one occurrence or accident, regardless of the number of persons injured or the number of claimants.

b. If sponsor operated motor vehicles are involved, proof of comprehensive automobile liability insurance from an insurance company authorized to do business in Idaho. This coverage shall be a combined single limit for bodily injury and property damage of not less than five hundred thousand dollars (\$500,000.00) for bodily or personal injury, death, or property damage or loss as the result of any one occurrence or accident, regardless of the number of persons injured or the number of claimants.

2. **First Amendment Rights:** The terms and conditions of a permit (including providing insurance) shall not infringe upon rights of petition, assembly, or free expression protected by the first amendment of the United States constitution and/or the Idaho constitution. If an applicant asserts in writing that a term or condition proposed by the clerk-treasurer infringes upon a constitutional right, the clerk-treasurer shall have the burden of showing that the proposed term or condition is a reasonable time, place and manner restriction. (2011 Code)

**5-5-9: TIME, PLACE AND MANNER RESTRICTIONS:** The following prohibitions and regulations shall apply to activities requiring a permit:

- A. **Compliance Required:** It shall be unlawful for any person in charge of, or responsible for the conduct of, a duly permitted activity

requiring a permit to knowingly fail to comply with any condition of the permit.

- B. **Time Limit; Duration:** No permit shall be issued for a parade or public assembly to commence before seven o'clock (7:00) A.M. All parades and/or public assemblies shall terminate prior to ten o'clock (10:00) P.M. No parade requiring a permit shall exceed two (2) hours in length. City street setup and dispersal, including barricade removal, shall not be included in the activity time limit.
- C. **Place And Time Of Assemblage:** All parade participants shall assemble for the parade at the time and location designated in the parade permit and shall disperse from public property after the conclusion of the parade in order that regular traffic patterns might be restored.
- D. **Peaceful Activities:** Parade or assembly organizers shall assure that participants: 1) are not in possession of firearms or other weapons, unless specifically approved by the county sheriff; 2) do not intend to engage in violence or other unlawful conduct; and 3) do not intend to incite others to do so.
- E. **City Authority To Impose Conditions:** The permit may limit or condition the number of participants, the length of the event, the time and location of the event, or the manner of the event where necessary: 1) to prevent violence; 2) to avoid serious inconvenience to those needing access to commercial or public services; 3) to avoid interference with movement of police or fire vehicles or ambulances; and 4) where such limitations or conditions provide ample opportunity for exercise of constitutionally protected rights. (2011 Code)

5-5-10: **APPEAL PROCEDURE:** Any applicant shall have the right to appeal the clerk-treasurer's denial of a permit or imposition of conditions to the city council. The denied applicant must make any appeal within forty eight (48) hours after receipt of the denial or conditional approval from the clerk-treasurer by filing a written notice of appeal with the clerk-treasurer setting out the reasons therefor in writing. The city council will hear the appeal at a regular or special meeting (48 hour scheduling) and reach a determination prior to the planned date and time of the parade/ public assembly; and in each instance, no more than seven (7) business days after the date the notice of appeal is filed with the clerk-treasurer. (2011 Code)

5-5-11: **EMERGENCY CANCELLATION OR TERMINATION:** Notwithstanding issuance of a permit pursuant to provisions of this chapter, the city official in charge is authorized to revoke a parade/public assembly permit if it is determined, based upon competent evidence, that the conduct of the parade or public assembly would bring about violence which would, with reasonable certainty, result in injury to the public or to public safety personnel, or which would result in damage to public or private property. Any such cancellation shall be communicated to the sponsor/applicant as soon as possible after such determination has been made. (2011 Code)

5-5-12: **VIOLATIONS; PENALTIES:** Any person who violates or fails to comply with any of the provisions of this chapter or who, having obtained a permit hereunder, fails to comply with the conditions set forth in the approved permit is guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-4-1 of this code. (2011 Code)