

ORDINANCE NO. 3125

AN ORDINANCE OF THE CITY OF IDAHO FALLS, IDAHO, CREATING A BUSINESS IMPROVEMENT DISTRICT PURSUANT TO CHAPTER 26, TITLE 50, IDAHO CODE FOR THE PURPOSE OF PROMOTING BUSINESS AND EVENTS WITHIN THE DISTRICT; IMPROVING AND MAINTAINING PUBLIC AREAS WITHIN THE DISTRICT AND FULFILLING ALL PURPOSES FOR WHICH A BUSINESS IMPROVEMENT DISTRICT MAY BE FORMED; ESTABLISHING THE RATE OF LEVY FOR SPECIAL ASSESSMENTS BY DISTRICT; AUTHORIZING THE COUNCIL TO CONTRACT WITH A BUSINESS ASSOCIATION TO ADMINISTER THE OPERATION OF THE BUSINESS IMPROVEMENT DISTRICT; PROVIDING FOR SEVERABILITY; PUBLICATION BY SUMMARY; AND ESTABLISHMENT OF EFFECTIVE DATE.

WHEREAS, Chapter 26, Title 50, Idaho Code, authorizes the renewal of a Business Improvement District by an incorporated City; and

WHEREAS, the formation of a Business Improvement District is accomplished by filing an initiation petition containing the signatures of the persons who own a business or a business property in the proposed District who would pay fifty percent (50%) of the proposed special assessments first being presented to the City Council; and

WHEREAS, the City Council of the City of Idaho Falls has received a valid initiation petition; and

WHEREAS, on May 25, 2017, the Mayor and City Council passed a Resolution declaring the intent of the City of Idaho Falls to create a Downtown Business Improvement District; and

WHEREAS, due and legal notice of said hearing having been given by mailing each business or property owner a copy of the Resolution of intent to create the District and the Resolution was published June 25, 2017 in the City's official newspaper; and

WHEREAS, a public hearing was held on July 13, 2017, at the hour of 7:30 p.m. in the City Council Chambers, Idaho Falls, Idaho.

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

**SECTION 1. Definitions:** For the purposes hereof, the following words as used herein shall have the meaning ascribed below:

**ASSESSABLE PROPERTY:** All real property located within the boundaries of the District and used wholly or partially for business purposes, except property exempt from taxation pursuant to Idaho Code Sections 63-602A, 63-602B, and 63-602C and except for property used exclusively for residential purposes.

**ASSESSED VALUE:** The value of Assessable Property as established on the Ad Valorem Property Tax Rolls of Bonneville County for 2017 and each year thereafter during the existence of the District.

**BUSINESS:** Any sole proprietorship, partnership, corporation, limited liability company, trust, or other association of any kind whose primary purpose is the transaction of business for pecuniary gain.

**CITY:** The City of Idaho Falls, Idaho.

**DISTRICT:** The Business Improvement District created by this Ordinance with boundaries described in Section 3 hereof.

**EXCLUSIVE OR EXCLUSIVELY:** The term "exclusive" and "exclusively" shall have the same meaning ascribed in Idaho Code Section 63-602(2), as applied to the exemptions set forth in this Ordinance.

**FISCAL YEAR:** The fiscal year of the City commencing October 1 and ending on September 30 of the following calendar year.

**OWNER:** The property of the fee estate of Assessable Property or the beneficial or equitable owner of such property under a contract of sale or other conveyance whereby a purchaser acquires equitable title to such property, provided a Notice of Sale has been recorded with the Bonneville County Recorder.

**PARCEL:** Any parcel of real property for which a separate parcel number has been assigned by the Bonneville County Assessor's Office.

**REAL PROPERTY:** Real property, as defined in Idaho Code Section 63-201(23).

**RESIDENTIAL PROPERTY:** Real property used solely for residential habitation of human beings.

**TREASURER:** the treasurer of Bonneville County, Idaho.

**SECTION 2. Creation of the District:** There shall be and hereby is created a Business Improvement District pursuant to the provisions of Chapter 26, Title 50 of the Idaho Code. The District shall be known as the Idaho Falls Business Improvement District No. 1 and shall have the boundaries described in Section 3 hereof.

**SECTION 3. Boundaries:** The boundaries of the District are as described and shown on the map, attached hereto as Exhibit "A".

**SECTION 4. Use of Special Assessment Revenues:** Special assessment revenues collected pursuant to this Ordinance, and accrued interest thereon, shall be used only for the following purposes:

- A. The promotion of public events taking place on or in public places in the District.
- B. The general promotion of retail trade activities in the District, including, but not limited to, promotion of public events and advertising therefor.



C. The physical improvement and decoration of any public space within the District, including, but not limited to, construction, maintenance and operation of a public parking garage.

D. The hiring of a manager and staff or independent contractors as needed to administer and manage the district, including, but not limited to, developing and implementing programs designed to generally promote retail trade activities in the District.

E. Payment of all ordinary and necessary expenses incurred in the formation, operation, and conduct of all affairs of the District.

F. Any and all other purposes for which a Business Improvement District may be formed under Chapter 26, Title 50, Idaho Code.

**SECTION 5. Special Assessment and Assessment Roll:** There is hereby assessed against each parcel of Assessable Property located wholly or partially within the District a special assessment in an amount not to exceed two mills (.002) multiplied by the then-current Assessed Value of such property. The City Clerk forthwith shall prepare an assessment roll containing the Business Owner's Name, Mailing Address, Assessed Value, Parcel Number and the Amount of the Special Assessment for Each Parcel of Assessable Property located within the District. In the event of any division of Assessable Property after the date hereof, the Assessed Value of the resulting parcels shall be apportioned to each Owner thereof in the same proportion that the square footage of each resulting parcel bears to the square footage of the entire property, as it existed at the time the Assessed Value was determined by the Bonneville County Assessor. The Assessment Roll shall be presented to the Bonneville County Treasurer on or before August 1<sup>st</sup> each year hereafter for inclusion in the real property tax bill for each parcel.

**SECTION 6. Maximum Assessments:** Notwithstanding the provisions of Section 5 hereof, the aggregate annual assessment of all parcels of Assessable Property owned by a Business Owner or Owners shall not exceed two thousand five hundred dollars (\$2,500.00) unless such parcels are located at four (4) or more non-contiguous locations. In such event, the City Clerk shall identify the three (3) non-contiguous locations having the highest aggregate assessed value for all parcels at such locations and shall assess a maximum aggregate special assessment of two thousand five hundred dollars (\$2,500.00) for all three (3) such parcels. All remaining parcels located at other locations shall then be assessed at the rate set forth in Section 5 hereof. In order to qualify for the maximum special assessment provided herein, all parcels at the two (2) or three (3) non-contiguous locations must be vested identically in the same Owner or Owners.

**SECTION 7. Exemption for New Businesses:** Notwithstanding the provisions of Section 5 hereof, any parcel of Assessable Property used in any businesses established after the creation of the District shall be exempt from any special assessments imposed pursuant to this Ordinance from the date of first occupancy until the next billing date. Any Owner who wishes to claim such exemption shall file with the City Clerk a declaration under oath stating the date which he or she commenced business within the District and shall provide evidence thereof to the City Clerk. Such declaration shall be accompanied by clear evidence of the date such business was commenced and shall be filed with the City Clerk no later than July 1 of the Fiscal Year during which such special assessments are made. Failure to file such claim or to provide sufficient evidence to qualify for such exemption shall be deemed a waiver of such exemption.



**SECTION 8. Payment of Assessments:** Special Assessments made hereunder shall be deemed made on and shall become due and payable to the Bonneville County Treasurer one-half on June 20th and one-half on December 20<sup>th</sup> of each Fiscal Year. All assessments, irrespective of the date when they become due, shall be deemed to be levied on October 1<sup>st</sup> of the Fiscal Year during which the assessments are due and payable.

**SECTION 9. Term:** Special assessments shall be levied for a period of ten (10) years, commencing in the 2017/2018 Fiscal Year and terminating at the expiration of the 2027/2028 Fiscal Year.

**SECTION 10. Collection of Delinquent Assessments:** Collection of delinquent assessments shall proceed in accordance with Idaho Code § 63-1001, et seq.; including accrual of interest and payment of related fees and costs.

**SECTION 11. Disposition of Funds:** All money received by the County Treasurer on account of the payment of assessments or installments thereof shall be paid to the City of Idaho Falls and be held by the City for the benefit of the District and shall be deposited to the credit of the District. Any money left in any fund into which revenues from special assessments collected pursuant hereto after all expenses of the District have been paid in full, shall be credited to the general fund of the City.

**SECTION 12. Changes in Assessment Rates:** Changes in the amount of the Special Assessment shall be made in accordance with Idaho Code Section 50-2614.

**SECTION 13. Segregation of Assessments:** Revenues derived from the collection of the Special Assessments shall be separately segregated and accounted for by the City Treasurer. All such special assessment revenues shall be used solely for the purposes set forth in Section 4 of this Ordinance and shall be deposited, audited, expended and appropriated in the manner provided by law.

**SECTION 14. Strict Construction of the Exemptions:** All exemptions from special assessment under this Ordinance shall be strictly construed and the burden of proof of establishing the same shall be upon the Owner of the Assessable Property.

**SECTION 15. Notices:** All notices given or required by the terms of this Ordinance shall be deemed delivered upon deposit thereof in the U. S. Mail, postage prepaid, addressed to the Owner at the address reflected upon the real property tax rolls of Bonneville County, or if no such address is known, then by publication at least once in the Post Register.

**SECTION 16. 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 17. 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 18. 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  
13<sup>th</sup> day of JULY, 2017.

CITY OF IDAHO FALLS, IDAHO

  
REBECCA L. NOAH CASPER, MAYOR

ATTEST:

  
KATHY HAMPTON, CITY CLERK



)  
) ss:  
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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, CREATING A BUSINESS IMPROVEMENT DISTRICT PURSUANT TO CHAPTER 26, TITLE 50, IDAHO CODE FOR THE PURPOSE OF PROMOTING BUSINESS AND EVENTS WITHIN THE DISTRICT; IMPROVING AND MAINTAINING PUBLIC AREAS WITHIN THE DISTRICT AND FULFILLING ALL PURPOSES FOR WHICH A BUSINESS IMPROVEMENT DISTRICT MAY BE FORMED; ESTABLISHING THE RATE OF LEVY FOR SPECIAL ASSESSMENTS BY DISTRICT; AUTHORIZING THE COUNCIL TO CONTRACT WITH A BUSINESS ASSOCIATION TO ADMINISTER THE OPERATION OF THE BUSINESS IMPROVEMENT DISTRICT; PROVIDING FOR SEVERABILITY; PUBLICATION BY SUMMARY; AND ESTABLISHMENT OF EFFECTIVE DATE"



  
KATHY HAMPTON, CITY CLERK



EXHIBIT "A"

