City of McCall

City Council

AGENDA
Special Meeting
April 7, 2022 at 5:30 P.M.
Legion Hall – Below City Hall
216 East Park Street
McCall, ID
AND MS TEAMS Virtual

ANNOUNCEMENT:

Due to McCall's commitment to stay healthy in response to the COVID-19 Emergency and ensuring that the City's Business continues, this will be both an in person and virtual meeting. The Legion Hall's 6-foot social distancing Occupancy Capacity is **16**. The Council Members and staff who are anticipated to be in attendance is **8**. The first **8** persons who appear will be allowed to be present in the meeting location. **Social distancing and masking will be enforced**. All other persons may be in attendance virtually. Any member of the public can join and listen only to the meeting at 5:30 p.m. by calling in as follows:
Dial 208-634-8900 when asked for the Conference ID enter: 827 785 686#
Or you may watch live by clicking this link: https://youtu.be/3HrOGXoZjG4

OPEN SESSION

Roll Call

WORK SESSION
AB 22-084 Education on Building Moratorium

ADJOURN

American with Disabilities Act Notice: The City Council Meeting room is accessible to persons with disabilities. If you need assistance, please contact City Hall at 634-7142 at least 48 hours prior to the meeting.

McCALL CITY COUNCIL
AGENDA BILL

216 East Park Street
McCall, Idaho 83638

Number **AB 22-084**
Meeting Date **April 7, 2022**

AGENDA ITEM INFORMATION				
SUBJECT: ***Education on Building Moratorium***		***Department Approvals***	***Initials***	***Originator or Supporter***
		Mayor / Council		
		City Manager	ABS	
		Clerk		
		Treasurer		
		Community Development	MG	Originator
		Police Department		
		Public Works		
		Golf Course		
COST IMPACT:	n/a	Parks and Recreation		
FUNDING SOURCE:	n/a	Airport		
		Library		
TIMELINE:	n/a	Information Systems		
		Grant Coordinator		

SUMMARY STATEMENT:

This special meeting is to provide information on Building Moratorium as requested by the City Council. The City Attorney and CED Director will provide information on this topic in the following format:

1. What is a building moratorium?
2. What is the justification for implementing one?
3. Background on McCall's previous moratorium
4. What are the issues/solutions?

Additional information included in a memo will be provided prior to the meeting and this information will be presented at the special meeting.

RECOMMENDED ACTION:

Informational only- no action necessary

RECORD OF COUNCIL ACTION	
MEETING DATE	***ACTION***

City of McCall
COMMUNITY DEVELOPMENT

www.mccall.id.us

216 East Park Street
McCall, Idaho 83638

Phone 208-634-7052
Main 208-634-7142
Fax 208-634-3038

Subject: Development Moratorium Education Work Session
From: Michelle Groenevelt, Community & Economic Development Director
Date: April 7, 2022

The intention of this Memorandum is to provide information to the City Council on Development Moratorium for education purposes.

What is a Moratorium?

A moratorium ordinance is a local law that takes immediate effect to temporarily prohibit a particular development activity so that a locality can have the time it needs to study the potential effects of the proposed activity and establish new, permanent regulations of that use. A moratorium does not stop development but allows the locality to pause that type of development so solutions can be developed and/or implemented.

What right does the City have to impose a moratorium?

In the Local Land Use Planning Act of the Idaho State Statute the City is given authority to impose an Emergency Moratorium. "67-6523. EMERGENCY ORDINANCES AND MORATORIUMS.

If a governing board finds that an imminent peril to the public health, safety, or welfare requires adoption of ordinances as required or authorized under this chapter, or adoption of a moratorium upon the issuance of selected classes of permits, or both, it shall state in writing its reasons for that finding…."

In 67-6524, INTERIM ORDINANCES AND MORATORIUMS. *If a governing board finds that a plan, a plan component, or an amendment to a plan is being prepared for its jurisdiction, it may adopt interim ordinances as required or authorized under this chapter, following the notice and hearing procedures provided in section 67-6509, Idaho Code. The governing board may also adopt an interim moratorium upon the issuance of selected classes of permits if, in addition to the foregoing, the governing board finds and states in writing that an imminent peril to the public health, safety, or welfare requires the adoption of an interim moratorium. An interim ordinance or moratorium shall state a definite period of time, not to exceed one (1) calendar year, when it shall be in full force and effect. To sustain restrictions*

established by an interim ordinance or moratorium, a governing board must adopt a regular ordinance, following the notice and hearing procedures provided in section 67-6509, Idaho Code.

How long can a moratorium last in Idaho?

The moratorium is proposed for six months- one year depending on the type of moratorium. Sometimes communities will request the full amount of time and plan for a shorter timeline to complete the work if possible.

After a moratorium expires when can it be renewed in Idaho?

Once an emergency moratorium expires it can't be renewed for at least a year.

Why would a City propose a moratorium?

The moratorium is in response to immediate development pressure. Often there is a problem without the proper tools in place to reflect the community desire. For example, there has not been adequate planning and zoning tools in place to implement a Master Plan. The moratorium gives cities/counties the time to develop and adopt those tools to manage the issue(s).

McCall's past moratoria

In the early 2000s the City of McCall experienced a large number of residential subdivision applications and the City was in trouble with Idaho DEQ regarding sewer capacity issues. In 2005 DEQ was threatening to cut off the ability of the City to issue any sewer connections until the City could determine exactly how much capacity it had in the winter storage pond (due to problems with spring inflow and infiltration in the aging sewer pipes). There was an affordable housing problem, much like the current problem, where local workers found it difficult to find a home to buy or rent.

In March 2006 the City adopted a new zoning and development code that added inclusionary zoning and other tools to require future subdivision development add affordable housing. The McCall Board of Realtors sued the City of McCall in September of 2006 claiming the new code was unconstitutional. As a result of that lawsuit, the City Council enacted an emergency moratorium to halt all subdivision applications. The Council followed that ordinance with an interim moratorium designed to allow some subdivision applications. In the pause that occurred the City staff developed criteria for allocating sewer permits, including criteria that rewarded developers who included affordable housing. The lawsuit was eventually decided in favor of the realtors and the City Council opted not to appeal. The Great Recession brought development to a halt.

Another issue that arose around the same time when there was a proposal for a lakeside hotel that would have exceeded the City's height limitation. The City council considered a moratorium on applications within a certain distance of the lake for uses of a certain type. That moratorium ordinance failed.

Copies of these ordinances are included in the packet.

Recent examples of moratoriums

The following are examples of recent moratoriums from cities and a county:

1. Caldwell: This 2021 moratorium was "eminent peril" due to possible restrictions for public safety services and put a pause on applications for preliminary plats, planned unit developments and residential annexations. Caldwell set its moratorium at a maximum of 120 days. About 75% of Caldwell's property tax revenue is used for public safety, including police and fire services. Given the budget limitations imposed by HB 389, the city wanted to be more careful with each new development because as more homes are built, the demand for city services increases.

2. Victor: The Victor City Council voted unanimously to enact a six-month moratorium on development in the upper hillside pressure district. This was a result of development proposals in that area of Victor are endangering the future ability of the current water system in the Upper Hillside Pressure District to provide required water pressures. Under the moratorium, incomplete subdivision applications and building permits were not considered.

Valley County: A moratorium was put into place on subdivision to change code related to 'exception' requirements for the subdivision of land from a 20-acre parcel to a 160-acre parcel.

Current issues/Development Pressure

McCall, like many amenity rich communities, has experienced more visitation in recent years. Also, there are growth related issues that have been identified. The City of McCall has done considerable long-range planning, policy development, and regulation updates in the past decade. While McCall was not ready from planning perspective for the development 'boom' starting in 2004, significant progress has been made to make sure the right tools are in place to manage growth and development that is consistent with the McCall Area Comprehensive Plan. However, this is an ongoing process to ensure we are being proactive and also responding to the changing issues.

There are a few significant issues that have been identified in the McCall Area. The most significant of these is the sewer connection/capacity issues and the lack of local housing and affordability. These issues are also interrelated so fortunately the City and The Payette Lakes Water and Sewer District are currently working on these issues. The City of McCall is leading a **Local Housing Action Plan** with all of the community partners and this process should be completed in June 2022. The Sewer District has kicked off the **Sewer Master Plan** which is a 2-year process to figure out sewer infrastructure needs for the community.

Another topic of interest is the management of our lakes and rivers. Valley County is leading the **Waterways Management Plan** and working regionally with the respective jurisdictions and agencies on the health and safety of these important natural resources.

The City Council held two work sessions about **Short-Term Rentals permitting and regulation**. They provided direction to revise the permitting and regulations to better manage health and safety and impacts to neighborhoods. Public participation through surveys and focus groups will launch soon and inspection/regulations development are being coordinated with the McCall Fire District.

A topic that the City Council may consider in the near future, is the exploration of using **Impact Fees** to ensure new development is paying for new impacts to the community. This may be a tool that the City Council wants to discuss more in a future work session.

Is a moratorium needed now in McCall?

A moratorium is a way to hit pause on a certain type of development to solve a specific problem in a short period of time. The Council should only consider a moratorium when there is imminent peril to the public health, safety, or welfare. The following are a list of questions to consider when contemplating a moratorium:

- What is the problem that is causing imminent peril to the public health, safety, or welfare, and what is that imminent peril?
- Can this issue be solved immediately (6 months-1 year timeframe)?
- Is this issue already being worked?
- What are the desired outcomes?
- What are positive/negative impacts?
- Is a moratorium the right approach to solving the issue?

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 82
DEVELOPMENT IMPACT FEES

67-8201. SHORT TITLE. This chapter shall be known and may be cited as the "Idaho Development Impact Fee Act."

[67-8201, added 1992, ch. 282, sec. 1, p. 861.]

67-8202. PURPOSE. The legislature finds that an equitable program for planning and financing public facilities needed to serve new growth and development is necessary in order to promote and accommodate orderly growth and development and to protect the public health, safety and general welfare of the citizens of the state of Idaho. It is the intent by enactment of this chapter to:

(1) Ensure that adequate public facilities are available to serve new growth and development;

(2) Promote orderly growth and development by establishing uniform standards by which local governments may require that those who benefit from new growth and development pay a proportionate share of the cost of new public facilities needed to serve new growth and development;

(3) Establish minimum standards for the adoption of development impact fee ordinances by governmental entities;

(4) Ensure that those who benefit from new growth and development are required to pay no more than their proportionate share of the cost of public facilities needed to serve new growth and development and to prevent duplicate and ad hoc development requirements; and

(5) Empower governmental entities which are authorized to adopt ordinances to impose development impact fees.

[67-8202, added 1992, ch. 282, sec. 1, p. 861.]

67-8203. DEFINITIONS. As used in this chapter:

(1) "Affordable housing" means housing affordable to families whose incomes do not exceed eighty percent (80%) of the median income for the service area or areas within the jurisdiction of the governmental entity.

(2) "Appropriate" means to legally obligate by contract or otherwise commit to use by appropriation or other official act of a governmental entity.

(3) "Capital improvements" means improvements with a useful life of ten (10) years or more, by new construction or other action, which increase the service capacity of a public facility.

(4) "Capital improvement element" means a component of a comprehensive plan adopted pursuant to chapter 65, title 67, Idaho Code, which component meets the requirements of a capital improvements plan pursuant to this chapter.

(5) "Capital improvements plan" means a plan adopted pursuant to this chapter that identifies capital improvements for which development impact fees may be used as a funding source.

(6) "Developer" means any person or legal entity undertaking development, including a party that undertakes the subdivision of property pursuant to sections 50-1301 through 50-1334, Idaho Code.

(7) "Development" means any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the subdivision of property that would permit any change in the use, character or appearance of land. As used in this chapter, "development" shall not include activities that would otherwise be subject to payment of the development impact fee if such activities are undertaken by a taxing district, as defined in section 63-201, Idaho Code, or by an authorized public charter school, as defined in section 33-5202A, Idaho Code, in the course of carrying out its statutory responsibilities, unless the adopted impact fee ordinance expressly includes taxing districts or public charter schools as being subject to development impact fees.

(8) "Development approval" means any written authorization from a governmental entity that authorizes the commencement of a development.

(9) "Development impact fee" means a payment of money imposed as a condition of development approval to pay for a proportionate share of the cost of system improvements needed to serve development. This term is also referred to as an impact fee in this chapter. The term does not include the following:

(a) A charge or fee to pay the administrative, plan review, or inspection costs associated with permits required for development;

(b) Connection or hookup charges;

(c) Availability charges for drainage, sewer, water, or transportation charges for services provided directly to the development; or

(d) Amounts collected from a developer in a transaction in which the governmental entity has incurred expenses in constructing capital improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the capital improvements, unless a written agreement is made pursuant to section 67-8209(3), Idaho Code, for credit or reimbursement.

(10) "Development requirement" means a requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to, a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land, or money as a condition of approval.

(11) "Extraordinary costs" means those costs incurred as a result of an extraordinary impact.

(12) "Extraordinary impact" means an impact that is reasonably determined by the governmental entity to:

(a) Result in the need for system improvements, the cost of which will significantly exceed the sum of the development impact fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by section 67-8214(2), Idaho Code; or

(b) Result in the need for system improvements that are not identified in the capital improvements plan.

(13) "Fee payer" means that person who pays or is required to pay a development impact fee.

(14) "Governmental entity" means any unit of local government that is empowered in this enabling legislation to adopt a development impact fee ordinance.

(15) "Impact fee." See development impact fee.

(16) "Land use assumptions" means a description of the service area and projections of land uses, densities, intensities, and population in the service area over at least a twenty (20) year period.

(17) "Level of service" means a measure of the relationship between service capacity and service demand for public facilities.

(18) "Manufactured home" means a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure that meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq.

(19) "Modular building" is as defined in section 39-4301, Idaho Code.

(20) "Present value" means the total current monetary value of past, present, or future payments, contributions or dedications of goods, services, materials, construction or money.

(21) "Project" means a particular development on an identified parcel of land.

(22) "Project improvements" means site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.

(23) "Proportionate share" means that portion of the cost of system improvements determined pursuant to section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

(24) "Public facilities" means:

(a) Water supply production, treatment, storage and distribution facilities;

(b) Wastewater collection, treatment and disposal facilities;

(c) Roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;

(d) Stormwater collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;

(e) Parks, open space and recreation areas, and related capital improvements; and

(f) Public safety facilities, including law enforcement, fire stations and apparatus, emergency medical and rescue, and street lighting facilities.

(25) "Recreational vehicle" means a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

(26) "Service area" means any defined geographic area identified by a governmental entity or by intergovernmental agreement in which specific public facilities provide service to development within the area defined, on the basis of sound planning or engineering principles or both.

(27) "Service unit" means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements.

(28) "System improvements," in contrast to project improvements, means capital improvements to public facilities designed to provide service to a service area including, without limitation, the type of improvements described in section 50-1703, Idaho Code.

(29) "System improvement costs" means costs incurred for construction or reconstruction of system improvements, including design, acquisition, engineering and other costs attributable thereto, and also including, without limitation, the type of costs described in section 50-1702(h), Idaho Code, to provide additional public facilities needed to serve new growth and development. For clarification, system improvement costs do not include:

(a) Construction, acquisition or expansion of public facilities other than capital improvements identified in the capital improvements plan;

(b) Repair, operation or maintenance of existing or new capital improvements;

(c) Upgrading, updating, expanding or replacing existing capital improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;

(d) Upgrading, updating, expanding or replacing existing capital improvements to provide better service to existing development;

(e) Administrative and operating costs of the governmental entity unless such costs are attributable to development of the capital improvements plan, as provided in section 67-8208, Idaho Code; or

(f) Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the governmental entity to finance capital improvements identified in the capital improvements plan.

[67-8203, added 1992, ch. 282, sec. 1, p. 861; am. 1996, ch. 366, sec. 1, p. 1226; am. 2002, ch. 347, sec. 1, p. 983; am. 2007, ch. 252, sec. 16, p. 753; am. 2008, ch. 389, sec. 1, p. 1068; am. 2019, ch. 70, sec. 1, p. 164; am. 2021, ch. 199, sec. 1, p. 546.]

67-8204. MINIMUM STANDARDS AND REQUIREMENTS FOR DEVELOPMENT IMPACT FEES ORDINANCES. Governmental entities which comply with the requirements of this chapter may impose by ordinance development impact fees as a condition of development approval on all developments.

(1) A development impact fee shall not exceed a proportionate share of the cost of system improvements determined in accordance with section 67-8207, Idaho Code. Development impact fees shall be based on actual system improvement costs or reasonable estimates of such costs.

(2) A development impact fee shall be calculated on the basis of levels of service for public facilities adopted in the development impact fee ordinance of the governmental entity that are applicable to existing development as well as new growth and development. The construction, improvement, expansion or enlargement of new or existing public facilities for which a development impact fee is imposed must be attributable to the capacity demands generated by the new development.

(3) A development impact fee ordinance shall specify the point in the development process at which the development impact fee shall be collected. The development impact fee may be collected no earlier than the commencement

of construction of the development, or the issuance of a building permit or a manufactured home installation permit, or as may be agreed by the developer and the governmental entity.

(4) A development impact fee ordinance shall be adopted in accordance with the procedural requirements of section 67-8206, Idaho Code.

(5) A development impact fee ordinance shall include a process whereby the governmental agency shall allow the developer, upon request by the developer, to provide a written individual assessment of the proportionate share of development impact fees under the guidelines established by this chapter which shall be set forth in the ordinance. The individual assessment process shall permit consideration of studies, data, and any other relevant information submitted by the developer to adjust the amount of the fee. The decision by the governmental agency on an application for an individual assessment shall include an explanation of the calculation of the impact fee, including an explanation of factors considered under section 67-8207, Idaho Code, and shall specify the system improvement(s) for which the impact fee is intended to be used.

(6) A development impact fee ordinance shall provide a process whereby a developer shall receive, upon request, a written certification of the development impact fee schedule or individual assessment for a particular project, which shall establish the development impact fee so long as there is no material change to the particular project as identified in the individual assessment application, or the impact fee schedule. The certification shall include an explanation of the calculation of the impact fee including an explanation of factors considered under section 67-8207, Idaho Code. The certification shall also specify the system improvement(s) for which the impact fee is intended to be used.

(7) A development impact fee ordinance shall include a provision for credits in accordance with the requirements of section 67-8209, Idaho Code.

(8) A development impact fee ordinance shall include a provision prohibiting the expenditure of development impact fees except in accordance with the requirements of section 67-8210, Idaho Code.

(9) A development impact fee ordinance may provide for the imposition of a development impact fee for system improvement costs incurred subsequent to adoption of the ordinance to the extent that new growth and development will be served by the system improvements.

(10) A development impact fee ordinance may exempt all or part of a particular development project from development impact fees provided that such project is determined to create affordable housing, provided that the public policy which supports the exemption is contained in the governmental entity's comprehensive plan and provided that the exempt development's proportionate share of system improvements is funded through a revenue source other than development impact fees.

(11) A development impact fee ordinance shall provide that development impact fees shall only be spent for the category of system improvements for which the fees were collected and either within or for the benefit of the service area in which the project is located.

(12) A development impact fee ordinance shall provide for a refund of development impact fees in accordance with the requirements of section 67-8211, Idaho Code.

(13) A development impact fee ordinance shall establish for a procedure for timely processing of applications for determination by the governmental entity regarding development impact fees applicable to a project, individ-

ual assessment of development impact fees, credits or reimbursements to be allowed or paid under section 67-8209, Idaho Code, and extraordinary impact.

(14) A development impact fee ordinance shall specify when an application for an individual assessment of development impact fees shall be permitted to be made by a developer or fee payer. An application for an individual assessment of development impact fees shall be permitted sufficiently in advance of the time that the developer or fee payer may seek a building permit or related permits so that the issuance of a building permit or related permits will not be delayed.

(15) A development impact fee ordinance shall provide for appeals regarding development impact fees in accordance with the requirements of section 67-8212, Idaho Code.

(16) A development impact fee ordinance must provide a detailed description of the methodology by which costs per service unit are determined. The development impact fee per service unit may not exceed the amount determined by dividing the costs of the capital improvements described in section 67-8208(1)(f), Idaho Code, by the total number of projected service units described in section 67-8208(1)(g), Idaho Code. If the number of new service units projected over a reasonable period of time is less than the total number of new service units shown by the approved land use assumptions at full development of the service area, the maximum impact fee per service unit shall be calculated by dividing the costs of the part of the capital improvements necessitated by and attributable to the projected new service units described in section 67-8208(1)(g), Idaho Code, by the total projected new service units described in that section.

(17) A development impact fee ordinance shall include a schedule of development impact fees for various land uses per unit of development. The ordinance shall provide that a developer shall have the right to elect to pay a project's proportionate share of system improvement costs by payment of development impact fees according to the fee schedule as full and complete payment of the development project's proportionate share of system improvement costs, except as provided in section 67-8214(3), Idaho Code.

(18) After payment of the development impact fees or execution of an agreement for payment of development impact fees, additional development impact fees or increases in fees may not be assessed unless the number of service units increases or the scope or schedule of the development changes. In the event of an increase in the number of service units or schedule of the development changes, the additional development impact fees to be imposed are limited to the amount attributable to the additional service units or change in scope of the development.

(19) No system for the calculation of development impact fees shall be adopted which subjects any development to double payment of impact fees.

(20) A development impact fee ordinance shall exempt from development impact fees the following activities:

(a) Rebuilding the same amount of floor space of a structure which was destroyed by fire or other catastrophe, providing the structure is rebuilt and ready for occupancy within two (2) years of its destruction;

(b) Remodeling or repairing a structure which does not increase the number of service units;

(c) Replacing a residential unit, including a manufactured home, with another residential unit on the same lot, provided that the number of service units does not increase;

(d) Placing a temporary construction trailer or office on a lot;

(e) Constructing an addition on a residential structure which does not increase the number of service units; and

(f) Adding uses that are typically accessory to residential uses, such as tennis courts or clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of system improvements.

(21) A development impact fee will be assessed for installation of a modular building, manufactured home or recreational vehicle unless the fee payer can demonstrate by documentation such as utility bills and tax records, either:

(a) That a modular building, manufactured home or recreational vehicle was legally in place on the lot or space prior to the effective date of the development impact fee ordinance; or

(b) That a development impact fee has been paid previously for the installation of a modular building, manufactured home or recreational vehicle on that same lot or space.

(22) A development impact fee ordinance shall include a process for dealing with a project which has extraordinary impacts.

(23) A development impact fee ordinance shall provide for the calculation of a development impact fee in accordance with generally accepted accounting principles. A development impact fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or developers within the service area other than the person paying the fee.

(24) A development impact fee ordinance shall include a description of acceptable levels of service for system improvements.

(25) Any provision of a development impact fee ordinance that is inconsistent with the requirements of this chapter shall be null and void and that provision shall have no legal effect. A partial invalidity of a development impact fee ordinance shall not affect the validity of the remaining portions of the ordinance that are consistent with the requirements of this chapter.

[67-8204, added 1992, ch. 282, sec. 1, p. 864; am. 1996, ch. 366, sec. 2, p. 1229; am. 2002, ch. 347, sec. 2, p. 986.]

67-8204A. INTERGOVERNMENTAL AGREEMENTS. Governmental entities as defined in section 67-8203(14), Idaho Code, that are jointly affected by development are authorized to enter into intergovernmental agreements with each other or with highway districts, fire districts, ambulance districts, water districts, sewer districts, recreational water and sewer districts, or irrigation districts for the purpose of developing joint plans for capital improvements or for the purpose of agreeing to collect and expend development impact fees for system improvements, or both, provided that such agreement complies with any applicable state laws. Governmental entities are also authorized to enter into agreements with the Idaho transportation department for the expenditure of development impact fees pursuant to a developer's agreement under section 67-8214, Idaho Code.

[67-8204A, added 1996, ch. 366, sec. 3, p. 1232; am. 2007, ch. 167, sec. 1, p. 496; am. 2021, ch. 95, sec. 1, p. 325.]

67-8205. DEVELOPMENT IMPACT FEE ADVISORY COMMITTEE. (1) Any governmental entity that is considering or that has adopted a development impact fee ordinance shall establish a development impact fee advisory committee.

(2)(a) The development impact fee advisory committee shall be composed of not fewer than five (5) members appointed by the governing authority of the governmental entity.

(b) Two (2) or more members shall be active in the business of development, building, or real estate. An existing planning or planning and zoning commission may serve as the development impact fee advisory committee if the commission includes two (2) or more members who are active in the business of development, building, or real estate; otherwise, two (2) such members who are not employees or officials of a governmental entity shall be appointed to the committee.

(c) New appointments and reappointments to a committee on and after July 1, 2021, must comply with the provisions of this paragraph. All members must reside within the jurisdictional boundaries of the governmental entity. Two (2) or more members shall be active in the business of development, building, or real estate. Two (2) or more members shall not be in the business of development, building, or real estate. Employees or officials acting in their official capacity for a governmental entity may not be appointed as members of the committee. An existing planning or planning and zoning commission may serve as the development impact fee advisory committee for the governing authority if the commission includes two (2) or more members who are active in the business of development, building, or real estate and two (2) or more members who are not in such business; otherwise, two (2) such members who are not employees or officials of a governmental entity shall be appointed to the committee until the membership requirements of this subsection are met.

(3) The development impact fee advisory committee shall serve in an advisory capacity and is established to:

(a) Assist the governmental entity in adopting land use assumptions;

(b) Review the capital improvements plan, and proposed amendments, and file written comments;

(c) Monitor and evaluate implementation of the capital improvements plan;

(d) File periodic reports, at least annually, with respect to the capital improvements plan and report to the governmental entity any perceived inequities in implementing the plan or imposing the development impact fees; and

(e) Advise the governmental entity of the need to update or revise land use assumptions, the capital improvements plan, and development impact fees.

(4) The governmental entity shall make available to the advisory committee, upon request, all financial and accounting information, professional reports in relation to other development and implementation of land use assumptions, the capital improvements plan, and periodic updates of the capital improvements plan.

[67-8205, added 1992, ch. 282, sec. 1, p. 867; am. 2021, ch. 136, sec. 1, p. 382.]

67-8206. PROCEDURE FOR THE IMPOSITION OF DEVELOPMENT IMPACT FEES. (1) A development impact fee shall be imposed by a governmental entity in compliance with the provisions set forth in this section.

(2) A capital improvements plan shall be developed in coordination with the development impact fee advisory committee utilizing the land use assump-

tions most recently adopted by the appropriate land use planning agency or agencies.

(3) A governmental entity that seeks to consider adoption, amendment, or repeal of a capital improvements plan shall hold at least one (1) public hearing. The governmental entity shall publish a notice of the time, place and purpose of the hearing or hearings not fewer than fifteen (15) nor more than thirty (30) days before the scheduled date of the hearing, in a newspaper of general circulation within the jurisdiction of the governmental entity. Such notices shall also include a statement that the governmental entity shall make available to the public, upon request, the following: proposed land use assumptions, a copy of the proposed capital improvements plan or amendments thereto, and a statement that any member of the public affected by the capital improvements plan or amendments shall have the right to appear at the public hearing and present evidence regarding the proposed capital improvements plan or amendments. The governmental entity shall send notice of the intent to hold a public hearing by mail to any person who has requested in writing notification of the hearing date at least fifteen (15) days prior to the hearing date, provided that the governmental entity may require that any person making such request renew the request for notification, not more frequently than once each year, in accordance with a schedule determined by the governmental entity, in order to continue receiving such notices.

(4) If the governmental entity makes a material change in the capital improvements plan or amendment, further notice and hearing may be provided before the governmental entity adopts the revision if the governmental entity makes a finding that further notice and hearing are required in the public interest.

(5) Either following or concurrently with adoption of the initial or amended capital improvements plan, a governmental entity shall conduct a public hearing to consider adoption of an ordinance authorizing the imposition of development impact fees or any amendment thereof. Notice of the hearing shall be provided in the same manner as set forth in subsection (3) of this section for adoption of a capital improvements plan, and such hearing, at the option of the governmental entity, may be combined with the public hearing held to adopt, amend or repeal the capital improvements plan.

(6) Nothing contained in this section shall be construed to alter the procedures for adoption of an ordinance by the governmental entity. Provided, however, a development impact fee ordinance shall not be adopted as an emergency measure but may be read for the first and second times on successive days prior to the public hearing to consider its adoption and shall not take effect sooner than thirty (30) days following its adoption.

[67-8206, added 1992, ch. 282, sec. 1, p. 868; am. 2006, ch. 321, sec. 1, p. 1019.]

67-8207. PROPORTIONATE SHARE DETERMINATION. (1) All development impact fees shall be based on a reasonable and fair formula or method under which the development impact fee imposed does not exceed a proportionate share of the costs incurred or to be incurred by the governmental entity in the provision of system improvements to serve the new development. The proportionate share is the cost attributable to the new development after the governmental entity considers the following: (i) any appropriate credit, offset or contribution of money, dedication of land, or construction of system improvements; (ii) payments reasonably anticipated to be made by or as a result of a new development in the form of user fees and debt service

payments; (iii) that portion of general tax and other revenues allocated by the jurisdiction to system improvements; and (iv) all other available sources of funding such system improvements.

(2) In determining the proportionate share of the cost of system improvements to be paid by the developer, the following factors shall be considered by the governmental entity imposing the development impact fee and accounted for in the calculation of the impact fee:

(a) The cost of existing system improvements within the service area or areas;

(b) The means by which existing system improvements have been financed;

(c) The extent to which the new development will contribute to the cost of system improvements through taxation, assessment, or developer or landowner contributions, or has previously contributed to the cost of system improvements through developer or landowner contributions.

(d) The extent to which the new development is required to contribute to the cost of existing system improvements in the future.

(e) The extent to which the new development should be credited for providing system improvements, without charge to other properties within the service area or areas;

(f) Extraordinary costs, if any, incurred in serving the new development;

(g) The time and price differential inherent in a fair comparison of fees paid at different times; and

(h) The availability of other sources of funding system improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The governmental entity shall develop a plan for alternative sources of revenue.

[67-8207, added 1992, ch. 282, sec. 1, p. 869; am. 1996, ch. 366, sec. 4, p. 1233; am. 2002, ch. 347, sec. 3, p. 989.]

67-8208. CAPITAL IMPROVEMENTS PLAN. (1) Each governmental entity intending to impose a development impact fee shall prepare a capital improvements plan. That portion of the cost of preparing a capital improvements plan which is attributable to determining the development impact fee may be funded by a one (1) time ad valorem levy which does not exceed two one-hundredths percent (.02%) of market value or by a surcharge imposed by ordinance on the collection of a development impact fee which surcharge does not exceed the development's proportionate share of the cost of preparing the plan. For governmental entities required to undertake comprehensive planning pursuant to chapter 65, title 67, Idaho Code, such capital improvements plan shall be prepared and adopted according to the requirements contained in the local planning act, section 67-6509, Idaho Code, and shall be included as an element of the comprehensive plan. The capital improvements plan shall be prepared by qualified professionals in fields relating to finance, engineering, planning and transportation. The persons preparing the plan shall consult with the development impact fee advisory committee.

The capital improvements plan shall contain all of the following:

(a) A general description of all existing public facilities and their existing deficiencies within the service area or areas of the governmental entity and a reasonable estimate of all costs and a plan to develop the funding resources related to curing the existing deficiencies including, but not limited to, the upgrading, updating, improving, ex-

panding or replacing of such facilities to meet existing needs and usage;

(b) A commitment by the governmental entity to use other available sources of revenue to cure existing system deficiencies where practical;

(c) An analysis of the total capacity, the level of current usage, and commitments for usage of capacity of existing capital improvements, which shall be prepared by a qualified professional planner or by a qualified engineer licensed to perform engineering services in this state;

(d) A description of the land use assumptions by the government entity;

(e) A definitive table establishing the specific level or quantity of use, consumption, generation or discharge of a service unit for each category of system improvements and an equivalency or conversion table establishing the ratio of a service unit to various types of land uses, including residential, commercial, agricultural and industrial;

(f) A description of all system improvements and their costs necessitated by and attributable to new development in the service area based on the approved land use assumptions, to provide a level of service not to exceed the level of service adopted in the development impact fee ordinance;

(g) The total number of service units necessitated by and attributable to new development within the service area based on the approved land use assumptions and calculated in accordance with generally accepted engineering or planning criteria;

(h) The projected demand for system improvements required by new service units projected over a reasonable period of time not to exceed twenty (20) years;

(i) Identification of all sources and levels of funding available to the governmental entity for the financing of the system improvements;

(j) If the proposed system improvements include the improvement of public facilities under the jurisdiction of the state of Idaho or another governmental entity, then an agreement between governmental entities shall specify the reasonable share of funding by each unit, provided the governmental entity authorized to impose development impact fees shall not assume more than its reasonable share of funding joint improvements, nor shall the agreement permit expenditure of development impact fees by a governmental entity which is not authorized to impose development impact fees unless such expenditure is pursuant to a developer agreement under section 67-8214, Idaho Code; and

(k) A schedule setting forth estimated dates for commencing and completing construction of all improvements identified in the capital improvements plan.

(2) The governmental entity imposing a development impact fee shall update the capital improvements plan at least once every five (5) years. The five (5) year period shall commence from the date of the original adoption of the capital improvements plan. The updating of the capital improvements plan shall be made in accordance with procedures set forth in section 67-8206, Idaho Code.

(3) The governmental entity must annually adopt a capital budget.

(4) The capital improvements plan shall be updated in conformance with the provisions of subsection (2) of this section each time a governmental en-

tity proposes the amendment, modification or adoption of a development impact fee ordinance.

[67-8208, added 1992, ch. 282, sec. 1, p. 869; am. 1996, ch. 322, sec. 71, p. 1098; am. 1996, ch. 366, sec. 5, p. 1233; am. 2002, ch. 347, sec. 4, p. 990.]

67-8209. CREDITS. (1) In the calculation of development impact fees for a particular project, credit or reimbursement shall be given for the present value of any construction of system improvements or contribution or dedication of land or money required by a governmental entity from a developer for system improvements of the category for which the development impact fee is being collected, including such system improvements paid for pursuant to a local improvement district. Credit or reimbursement shall not be given for project improvement.

(2) In the calculation of development impact fees for a particular project, credit shall be given for the present value of all tax and user fee revenue generated by the developer, within the service area where the impact fee is being assessed and used by the governmental agency for system improvements of the category for which the development impact fee is being collected. If the amount of credit exceeds the proportionate share for the particular project, the developer shall receive a credit on future impact fees for the amount in excess of the proportionate share. The credit may be applied by the developer as an offset against future impact fees only in the service area where the credit was generated.

(3) If a developer is required to construct, fund or contribute system improvements in excess of the development project's proportionate share of system improvement costs, including such system improvements paid for pursuant to a local improvement district, the developer shall receive a credit on future impact fees or be reimbursed at the developer's choice for such excess construction, funding or contribution from development impact fees paid by future development which impacts the system improvements constructed, funded or contributed by the developer(s) or fee payer.

(4) If credit or reimbursement is due to the developer pursuant to this section, the governmental entity shall enter into a written agreement with the fee payer, negotiated in good faith, prior to the construction, funding or contribution. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement.

[67-8209, added 1992, ch. 282, sec. 1, p. 871; am. 1996, ch. 366, sec. 6, p. 1235; am. 1999, ch. 291, sec. 10, p. 730; am. 2002, ch. 347, sec. 5, p. 991.]

67-8210. EARMARKING AND EXPENDITURE OF COLLECTED DEVELOPMENT IMPACT FEES. (1) An ordinance imposing development impact fees shall provide that all development impact fee funds shall be maintained in one (1) or more interest-bearing accounts within the capital projects fund. Accounting records shall be maintained for each category of system improvements and the service area in which the fees are collected. Interest earned on development impact fees shall be considered funds of the account on which it is earned, and not funds subject to section 57-127, Idaho Code, and shall be subject to all restrictions placed on the use of development impact fees under the provisions of this chapter.

(2) Expenditures of development impact fees shall be made only for the category of system improvements and within or for the benefit of the service area for which the development impact fee was imposed as shown by the capital improvements plan and as authorized in this chapter. Development impact fees shall not be used for any purpose other than system improvement costs to create additional improvements to serve new growth.

(3) As part of its annual audit process, a governmental entity shall prepare an annual report:

(a) Describing the amount of all development impact fees collected, appropriated, or spent during the preceding year by category of public facility and service area; and

(b) Describing the percentage of tax and revenues other than impact fees collected, appropriated or spent for system improvements during the preceding year by category of public facility and service area.

(4) Collected development impact fees must be expended within eight (8) years from the date they were collected, on a first-in, first-out (FIFO) basis, except that the development impact fees collected for wastewater collection, treatment and disposal and drainage facilities must be expended within twenty (20) years. Any funds not expended within the prescribed times shall be refunded pursuant to section 67-8211, Idaho Code. A governmental entity may hold the fees for longer than eight (8) years if it identifies, in writing:

(a) A reasonable cause why the fees should be held longer than eight (8) years; and

(b) An anticipated date by which the fees will be expended but in no event greater than eleven (11) years from the date they were collected.

[67-8210, added 1992, ch. 282, sec. 1, p. 871; am. 1996, ch. 366, sec. 7, p. 1236; am. 2002, ch. 347, sec. 6, p. 992; am. 2006, ch. 321, sec. 2, p. 1020.]

67-8211. REFUNDS. (1) Any governmental entity which adopts a development impact fee ordinance shall provide for refunds upon the request of an owner of property on which a development impact fee has been paid if:

(a) Service is available but never provided;

(b) A building permit or permit for installation of a manufactured home is denied or abandoned;

(c) The governmental entity, after collecting the fee when service is not available, has failed to appropriate and expend the collected development impact fees pursuant to section 67-8210(4), Idaho Code; or

(d) The fee payer pays a fee under protest and a subsequent review of the fee paid or the completion of an individual assessment determines that the fee paid exceeded the proportionate share to which the governmental entity was entitled to receive.

(2) When the right to a refund exists, the governmental entity is required to send a refund to the owner of record within ninety (90) days after it is determined by the governmental entity that a refund is due.

(3) A refund shall include a refund of interest at one-half (1/2) the legal rate provided for in section 28-22-104, Idaho Code, from the date on which the fee was originally paid.

(4) Any person entitled to a refund shall have standing to sue for a refund under the provisions of this chapter if there has not been a timely payment of a refund pursuant to subsection (2) of this section.

[67-8211, added 1992, ch. 282, sec. 1, p. 872; am. 2002, ch. 347, sec. 7, p. 993.]

67-8212. APPEALS. (1) A governmental entity which adopts a development impact fee ordinance shall provide for administrative appeals by the developer or fee payer from any discretionary action or inaction by or on behalf of the governmental entity.

(2) A fee payer may pay a development impact fee under protest in order to obtain a development approval or building permit. A fee payer making such payment shall not be estopped from exercising the right of appeal provided in this chapter, nor shall such fee payer be estopped from receiving a refund of any amount deemed to have been illegally collected.

(3) A governmental entity which adopts a development impact fee ordinance shall provide for mediation by a qualified independent party, upon voluntary agreement by the fee payer and the governmental entity, to address a disagreement related to the impact fee for proposed development. The ordinance shall provide that mediation may take place at any time during the appeals process and participation in mediation does not preclude the fee payer from pursuing other remedies provided for in this section. The ordinance shall provide that mediation costs will be shared equally by the fee payer and the governmental entity.

[67-8212, added 1992, ch. 282, sec. 1, p. 872; am. 1996, ch. 366, sec. 8, p. 1236.]

67-8213. COLLECTION. A governmental entity may provide in a development impact fee ordinance the means for collection of development impact fees, including, but not limited to:

(1) Additions to the fee for reasonable interest and penalties for nonpayment or late payment;

(2) Withholding of the building permit or other governmental approval until the development impact fee is paid;

(3) Withholding of utility services until the development impact fee is paid; and

(4) Imposing liens for failure to timely pay a development impact fee following procedures contained in chapter 5, title 45, Idaho Code.

A governmental entity that discovers an error in its impact fee formula that results in assessment or payment of more than a proportionate share shall, at the time of assessment on a case by case basis, adjust the fee to collect no more than a proportionate share or discontinue the collection of any impact fees until the error is corrected by ordinance.

[67-8213, added 1992, ch. 282, sec. 1, p. 872; am. 2002, ch. 347, sec. 8, p. 993.]

67-8214. OTHER POWERS AND RIGHTS NOT AFFECTED. (1) Nothing in this chapter shall prevent a governmental entity from requiring a developer to construct reasonable project improvements in conjunction with a development project.

(2) Nothing in this chapter shall be construed to prevent or prohibit private agreements between property owners or developers, the Idaho transportation department and governmental entities in regard to the construction or installation of system improvements or providing for credits or reimbursements for system improvement costs incurred by a developer

including interproject transfers of credits or providing for reimbursement for project improvements which are used or shared by more than one (1) development project. If it can be shown that a proposed development has a direct impact on a public facility under the jurisdiction of the Idaho transportation department, then the agreement shall include a provision for the allocation of impact fees collected from the developer for the improvement of the public facility by the Idaho transportation department.

(3) Nothing in this chapter shall obligate a governmental entity to approve development which results in an extraordinary impact.

(4) Nothing in this chapter shall obligate a governmental entity to approve any development request which may reasonably be expected to reduce levels of service below minimum acceptable levels established in the development impact fee ordinance.

(5) Nothing in this chapter shall be construed to create any additional right to develop real property or diminish the power of counties or cities in regulating the orderly development of real property within their boundaries.

(6) Nothing in this chapter shall work to limit the use by governmental entities of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.

(7) Nothing herein shall restrict or diminish the power of a governmental entity to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a developer or owner, or to impose reasonable conditions thereon, including the recovery of project or system improvement costs required as a result of such voluntary annexation.

[67-8214, added 1992, ch. 282, sec. 1, p. 873; am. 1996, ch. 366, sec. 9, p. 1237.]

67-8215. TRANSITION. (1) The provisions of this chapter shall not be construed to repeal any existing laws authorizing a governmental entity to impose fees or require contributions or property dedications for capital improvements. All ordinances imposing development impact fees shall be brought into conformance with the provisions of this chapter within one (1) year after the effective date of this chapter. Impact fees collected and developer agreements entered into prior to the expiration of the one (1) year period shall not be invalid by reason of this chapter. After adoption of a development impact fee ordinance, in accordance with the provisions of this chapter, notwithstanding any other provision of law, development requirements for system improvements shall be imposed by governmental entities only by way of development impact fees imposed pursuant to and in accordance with the provisions of this chapter.

(2) Notwithstanding any other provisions of this chapter, that portion of a project for which a valid building permit has been issued or construction has commenced prior to the effective date of a development impact fee ordinance shall not be subject to additional development impact fees so long as the building permit remains valid or construction is commenced and is pursued according to the terms of the permit or development approval.

[67-8215, added 1992, ch. 282, sec. 1, p. 873.]

67-8216. SEVERABILITY. The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this chapter.

[67-8216, added 1992, ch. 282, sec. 1, p. 873.]

CHAPTER 83
IDAHO FOOD QUALITY ASSURANCE INSTITUTE -- [REPEALED]

Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6523. EMERGENCY ORDINANCES AND MORATORIUMS. If a governing board finds that an imminent peril to the public health, safety, or welfare requires adoption of ordinances as required or authorized under this chapter, or adoption of a moratorium upon the issuance of selected classes of permits, or both, it shall state in writing its reasons for that finding. The governing board may then proceed without recommendation of a commission, upon any abbreviated notice of hearing that it finds practical, to adopt the ordinance or moratorium. An emergency ordinance or moratorium may be effective for a period of not longer than one hundred eighty-two (182) days. Restrictions established by an emergency ordinance or moratorium may not be imposed for consecutive periods. Further, an intervening period of not less than one (1) year shall exist between an emergency ordinance or moratorium and reinstatement of the same. To sustain restrictions established by an emergency ordinance or moratorium beyond the one hundred eighty-two (182) day period, a governing board must adopt an interim or regular ordinance, following the notice and hearing procedures provided in section 67-6509, Idaho Code.

History:

[67-6523, added I.C., sec. 67-6523, as added by 1975, ch. 188, sec. 2, p. 515; am. 2003, ch. 142, sec. 6, p. 415.]

Idaho Statutes

Idaho Statutes are updated to the web July 1 following the legislative session.

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6524. INTERIM ORDINANCES AND MORATORIUMS. If a governing board finds that a plan, a plan component, or an amendment to a plan is being prepared for its jurisdiction, it may adopt interim ordinances as required or authorized under this chapter, following the notice and hearing procedures provided in section 67-6509, Idaho Code. The governing board may also adopt an interim moratorium upon the issuance of selected classes of permits if, in addition to the foregoing, the governing board finds and states in writing that an imminent peril to the public health, safety, or welfare requires the adoption of an interim moratorium. An interim ordinance or moratorium shall state a definite period of time, not to exceed one (1) calendar year, when it shall be in full force and effect. To sustain restrictions established by an interim ordinance or moratorium, a governing board must adopt a regular ordinance, following the notice and hearing procedures provided in section 67-6509, Idaho Code.

History:

[67-6524, added I.C., sec. 67-6524, as added by 1975, ch. 188, sec. 2, p. 515; am. 2003, ch. 142, sec. 7, p. 415.]

How current is this law?

Search the Idaho Statutes and Constitution

ORDINANCE NO. 828

AN ORDINANCE OF THE CITY OF McCALL, VALLEY COUNTY, IDAHO AMENDING ORDINANCE NO. 827 OF THE McCALL CITY CODE, TO PROVIDE THAT THERE IS AN IMMEDIATE NEED FOR COMMUNITY HOUSING AND TO PROVIDE FOR A MORATORIUM ON ALL RESIDENTIAL SUBDIVISION AND RESIDENTIAL BUILDING PERMIT APPLICATIONS WITHIN THE CITY OF Mc CALL.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF McCALL, IDAHO, as follows:

Section 1: The City Council hereby finds that an imminent peril to the public, health, safety, and welfare exists caused by the inability to provide a reasonable supply of community housing made necessary by new residential growth.

1. The subdivision of land and the development or construction of residential dwelling units generates the demand for employees to maintain and service the new units.

2. A severe shortage of housing affordable to the workforce in the City of McCall, and the surrounding region, has been determined by a technical analysis and documented in the Housing Market and Needs Assessment, Valley and Adams County, July, 2005.

3. Continued residential development that increases the need for community housing without contributing to the provision of such housing will threaten the health, safety and general welfare of the community.

Section 2: The City Council hereby declares a moratorium on all residential subdivision, and residential building permit applications within the City, except the following: housing which is exempt according to McCall City Code 3.8.21(C), and any other subdivision or building permit application which is accompanied by a proposal to mitigate the effect the development of such subdivision or construction and/or occupancy of such residence will have that will increase the need for community/workforce housing in McCall. City staff will evaluate the proposal for mitigation and make a decision whether to accept or reject the proposed mitigation. A denial of a proposal which results in non-acceptance of the building permit application may be appealed to the City Council. The moratorium shall not apply to complete applications for preliminary plat or building permit approval which were filed prior to the effective date of this Ordinance, or applications for final plat approval of property included in the said preliminary plats as approved.

Section 3: This moratorium will terminate at the behest of the City Council or March 29, 2007, whichever occurs first.

Section 4: This Ordinance shall take effect immediately upon its passage and approval.

PASSED BY THE COUNCIL OF THE CITY OF McCALL, IDAHO, THIS 12th DAY OF October, 2006.

APPROVED BY THE MAYOR OF THE CITY OF McCall, IDAHO, THIS 12th DAY OF October, 2006.

Approved:

By _____
~~Mayor~~
Donald C. Bailey
Council President

Attest:

SEAL

By _____
City Clerk

City of McCall
Certificate of Recording Officer

STATE OF IDAHO }
}
County of Valley }

I, the undersigned, the duly appointed, qualified, City Clerk of the City of McCall, Idaho, do hereby certify the following:

1. That pursuant to the provisions of Section 50-207, Idaho Code, I keep a correct journal of the proceedings of the Council of the City of McCall, Idaho, and that I am statutory custodian of all laws, ordinances and resolutions of said City.

2. That the attached Ordinance No. 828 is a true and correct copy of an ordinance passed at a regular meeting of the Council of the City of McCall held on October 12th, 2006 and duly recorded in my office; and

3. That said regular meeting was duly convened and held in all respects in accordance with law and to the extent required by law, due and proper notice of such meeting and that a legally sufficient number of members of the Council voted in the proper manner and for the passage of said ordinance; and that all other requirements and proceedings incident to the proper adoption and passage of said ordinance have been duly fulfilled, carried out and observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of McCall, Idaho this 18th day of October 2006.

CITY OF McCALL, IDAHO
SEAL
McCALL, IDAHO

Joanne E. York
Joanne York, City Clerk

ORDINANCE NO. 833

AN ORDINANCE OF THE CITY OF McCALL, VALLEY COUNTY, IDAHO REPLACING ORDINANCES 827 AND 828 OF THE McCALL CITY CODE, TO PROVIDE THAT THERE IS AN IMMEDIATE NEED FOR COMMUNITY HOUSING AND TO PROVIDE FOR AN INTERIM MORATORIUM ON ALL RESIDENTIAL SUBDIVISION AND RESIDENTIAL BUILDING PERMIT APPLICATIONS WITHIN THE CITY OF Mc CALL WITH CERTAIN EXCEPTIONS AND EXEMPTIONS.

WHEREAS, the health, safety and welfare of the citizens of the City of McCall is dependent upon a reasonable supply of affordable, deed restricted workforce housing (community housing) being made available to ensure that medical personnel, peace officers, emergency personnel, fire personnel, public works personnel, providers of other professional services, and service workers live within proximity to their work to provide municipal and private sector services; and

WHEREAS, the McCall City Council held housing policy discussions at City Council meetings on July 14, 2005 and August 11, 2005; held public information sessions on housing policy on August 20, 2005 and August 23, 2005, and held public hearings on a proposed Housing Policy on September 7, 2005 and September 22, 2005; and

WHEREAS, to assure the existence of a supply of desirable and affordable housing for persons currently employed in the McCall area, persons who were employed in the McCall area prior to retirement, the disabled, persons whose services are required to serve new residential properties and other qualified persons of the McCall area, the City of McCall adopted a Community Housing Policy (Resolution 05-19) on September 22, 2005; and

WHEREAS, among other action items Resolution 05-19 directed staff to develop ordinances to implement the Community Housing Policy for consideration by the Planning & Zoning Commission and the City Council, including an Inclusionary Housing Ordinance and a Residential Linkage (Community Housing Fee) Ordinance; and

WHEREAS, after public hearings before the McCall Planning and Zoning Commission and the McCall City Council, on February 23, 2006 the McCall City Council adopted Ordinance 819 (Inclusionary Zoning), and Ordinance 820 (Community Housing Fee); and

WHEREAS, on September 25, 2006 the City of McCall was served with a lawsuit by the Mountain Central Board of Realtors, who are seeking to overturn Ordinances 819 and 820; and

WHEREAS, the uncertainty caused by the lawsuit significantly diminishes the City's ability to provide a reasonable supply of community housing to preserve the health, safety and welfare of the citizens of the community during a period of rapid growth of the community; and

WHEREAS, pursuant to Idaho Code Section 67-6523, the City may adopt an emergency resolution declaring a moratorium on certain classes of permits for a period not to exceed one hundred and eighty two (182) days; and

WHEREAS, the McCall City Council did adopt Ordinance Number 827 on September 28, 2006 and thereby enacted a moratorium on certain classes of permits until March 29, 2007; and

WHEREAS, subsequent to adoption of Ordinance Number 827 the McCall City Council did adopt Ordinance Number 828 on October 12, 2006. Ordinance Number 828 replaced Ordinance 827 for purpose of exempting certain housing noted in MCC 3.8.21(C) as well as to afford individuals the opportunity to mitigate the effect that construction of their residence or subdivision will have upon the need for workforce or community housing in McCall Idaho by allowing applicants to offer a form of affordable housing mitigation; and

WHEREAS, pursuant to Idaho Code Section 67-6524, the City may adopt and interim moratorium on certain classes of building permits for a period not to exceed three hundred and sixty five (365) days; and

WHEREAS, Ordinance Number 833 provides an interim moratorium on residential subdivision approvals and building permits within the City of McCall for a period of 365 days from the time Ordinance Number 827 expires on March 29, 2007, while continuing the certain noted exceptions and exceptions incorporated into Ordinance Number 828.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF McCALL, IDAHO, as follows:

Section 1: The City Council hereby finds that an imminent peril to the public, health, safety, and welfare exists caused by the inability to provide a reasonable supply of community housing made necessary by new residential growth.

1. The subdivision of land and the development or construction of residential dwelling units generates the demand for employees to maintain and service the new units.

2. A severe shortage of housing affordable to the workforce in the City of McCall, and the surrounding region, has been determined by a technical analysis and documented in the Housing Market and Needs Assessment, Valley and Adams County, dated July, 2005.

3. Continued residential development that increases the need for community housing without contributing to the provision of such housing will threaten the health, safety and general welfare of the community.

Section 2: The City Council hereby declares an interim moratorium on all residential subdivision, and residential building permit applications within the City, except the following: housing which is exempt according to McCall City Code 3.8.21(C), and any other subdivision or building permit application which is accompanied by a proposal to mitigate the effect the development of such subdivision or construction and/or occupancy of such residence will have that will increase the need for community/workforce housing in McCall. City staff will evaluate the proposal for mitigation and make a decision whether to accept or reject the proposed mitigation. A denial of a proposal, which results in denial of the building permit or subdivision application, may be appealed to the City Council. The interim moratorium shall not apply to complete applications for preliminary plat or building permit approval which were filed prior to September 28, 2006, or applications for final plat approval of property included in the said preliminary plats as approved prior to that date.

Section 3: This interim moratorium shall take effect March 29, 2007 and will terminate at the behest of the City Council or three hundred and sixty five (365) days from the effective date (March 27, 2008), whichever occurs first.

PASSED BY THE COUNCIL OF THE CITY OF McCALL, IDAHO, THIS 22nd DAY OF March, 2007.

APPROVED BY THE MAYOR OF THE CITY OF McCall, IDAHO, THIS 22nd DAY OF March, 2007.

William A. Robertson, Mayor

Attest:

Joanne York, City Clerk