

Chapter 8-16

IRRIGATION SYSTEM REGULATIONS

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Section 8-16-1 TITLE

This Ordinance shall be known as the Boise City Municipal Irrigation System Ordinance.
(5818, Added, 10/28/1997)

Section 8-16-2 PURPOSE AND INTENT

There is hereby created the Boise City Municipal Irrigation System to exercise the rights and authorities as provided by Chapter 18, Title 50, Idaho Code. For the purpose of developing, managing and utilizing the irrigation water resources of Boise City and for distributing said irrigation water resources to users, a municipal irrigation system or systems for the development, distribution and management of irrigation water resources shall be maintained, repaired, replaced and operated by Boise City in accordance with this Chapter. The intent of this ordinance is to provide an entity with the power and capability to own, operate and maintain a separate irrigation system or systems to allow for the continued use of developed irrigation water rights and to preserve the higher quality water for human consumption.
(5818, Added, 10/28/1997)

Section 8-16-3 DEFINITIONS

Boise City Area of City Impact: The Area defined in Boise City Code, Title 11, Chapter 15.

City: The City of Boise City.

Irrigation Commission: As established by Boise City Code, Title 2, Chapter 20, the Irrigation Commission is a recommendatory body to assist the Mayor and Council to effectuate and establish the

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policy and standards for irrigation systems required in residential development in the City of Boise Impact Area.

Irrigation Entity: In accordance with Idaho Code 31-3805, an irrigation entity is an existing irrigation district, or other canal company, ditch association, or like irrigation water delivery entity.

Irrigation Purposes: Includes the use of water for lawns, gardens, pastures, parks, greenbelts, golf courses, and open space.

Irrigation Water: Nonpotable water used for irrigation purposes.

Municipal Irrigation Fund: In accordance with Idaho Code 50-1806, a separate fund which will be the repository for city fees, assessments, and charges arising from the operation of the Boise Municipal Irrigation system.

Nonpotable Water: Water which does not conform to drinking water quality standards.

Person: Any individual, corporation, partnership, association, firm, public agency or any other legal entity.

Potable water: Water which conforms to drinking water quality standards.

Pressure Irrigation System: A system that delivers irrigation water under pressure through a closed distribution piping system.

Separate Irrigation System: A system of ditches, piping and water source(s) for delivery of irrigation water that is separate and independent of the potable water system.

User: Any consumer of water from the Boise City Municipal Irrigation System.

Water: When the term water is used in this Chapter without the prefix *Irrigation* or *Potable* it shall refer to both irrigation and potable water.

Water Rights: The term water rights means the legal right to divert and beneficially use the public waters of the State of Idaho where such right is evidenced by a decree, a permit or a license issued by the Idaho Department of Water Resources, a beneficial or constitutional use right evidenced by an adjudication claim or claim based on section 42-243, Idaho Code, or a right based on federal law.

Water Stock: The term water stock refers to the document which is evidence of ownership in an irrigation entity. This term has no application to irrigation districts because irrigation districts

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are quasi-governmental entities who do not offer any form of ownership to the owners of land within the irrigation district.

(5818, Added, 10/28/1997)

Section 8-16-4 APPLICABILITY

Pursuant to the Boise City Subdivision Ordinance every person within the Boise City Area of City Impact providing an irrigation system separate from the potable water system shall make provisions for the continued ownership, operation and maintenance of the separate irrigation system. All separate irrigation systems constructed within the Boise City Area of City Impact shall also comply with the minimum design criteria and specifications established by the Boise City Subdivision Ordinance. This Ordinance shall apply to all users within the Boise City Area of City Impact who become part of the Boise City Municipal Irrigation System.

(5818, Added, 10/28/1997)

Section 8-16-5 CONNECTION REQUIREMENTS AND PROCEDURES

Every person providing a separate irrigation system who desires to have the system owned, operated and maintained by the City of Boise shall:

1. File an application with the Boise City Public Works Department containing the following information:
 - a. A description of the area and property to be served by the separate irrigation system.
 - b. For existing systems, a map or drawing of the system indicating the proposed location of all easements, pipes, and other system infrastructure.
 - c. A description of the available surface water irrigation right and the irrigation entity which supplies the water to the system.
 - d. A formal request for inclusion into the Boise City Municipal Irrigation System.
2. The Boise City Public Works Department will prepare an agreement with the person containing at least the following provisions:
 - a. Definition of ownership, operation and maintenance responsibilities.
 - b. Agreement to abide by the terms of this ordinance including the payment of fees.

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- c. Agreement to abide by all applicable design standards and criteria established by the City.
 - d. The right of the City at any time without notice to shut off the water supply for repairs, extensions, or for any other maintenance and operation procedures. The City shall not be responsible for any damage such as the breaking of any pipe or fixtures, or any other damage resulting from shutting the water off.
 - e. A provision for the assignment of any water stock owned in any irrigation and canal companies who may provide water to the system and a provision for the issuance of a City water certificate. The City may also require that the agreement between the City and irrigation water user be subject to an additional agreement between the City and irrigation entity addressing the delivery of irrigation water to the user's property.
 - f. A provision that the irrigation water to be delivered by the Boise Municipal Irrigation System may be pooled for delivery.
 - g. When the entity providing water to the Municipal Irrigation System is an irrigation district, the agreement between the irrigation water user and the City shall be contingent upon the execution of a contract between the City of Boise and the irrigation district which among other things provides that the water may be pooled for delivery and the means and methods of passing on district irrigation assessments.
 - h. Any other terms both parties deem necessary.
3. The Application and Agreement will be forwarded to the Boise City Council for formal adoption and approval. If the Application and Agreement are approved, the Council shall pass and publish an ordinance describing the exterior boundaries of each separate irrigation system and incorporating the separate irrigation system into the boundaries of the Boise City Municipal Irrigation system.

(5818, Added, 10/28/1997)

Section 8-16-6 ASSESSMENTS AND FEES

All fees, charges and assessments received and collected under the authority of this Chapter shall be deposited and credited to funds designated as the Municipal Irrigation Fund. The accounts of said funds shall show all receipts and expenditures for the maintenance and operation of the irrigation system and any payments into a sinking

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fund established for the purpose of paying principal of and interest on bond indebtedness of the municipal irrigation systems which shall from time to time be outstanding. As provided by law, when budgeted and appropriated, the funds and credits to the account of the Municipal Irrigation Fund shall be available for the payment of the requirements for the maintenance and operation, repairs and upkeep of the Municipal Irrigation System of the City, and to the extent legally available, for payment into a sinking fund established for the payment of the principal of and interest on any Municipal Irrigation Fund indebtedness of the City which shall from time to time be outstanding.

The assessments for each irrigation system served by the Boise City Municipal Irrigation System shall be established by the Boise City Council in accordance with the provisions of Idaho Code Title 50, Chapter 18. The following dates are established by Idaho Code Title 50, Chapter 18.

- a. By the 4th Monday of January of each year, the Boise City clerk shall prepare an assessment book listing all the property to which irrigation water is being supplied by the Boise Municipal Irrigation System and listing the persons who own or have possession or control of the property. Both lists shall conform to the requirements of 50-1807.
- b. By the second Monday of February of each year, unless a legal holiday, then on the succeeding work day, the Mayor and City Council shall meet and make an estimate of the necessary funds for the expenses of maintaining, operating, improving, extending and enlarging the Boise Municipal Irrigation System for the ensuing year. The estimate of the expenses and the assessments derived from the estimate shall conform to the requirements of 50-1807.
- c. By the 1st day of March of each year, the Boise City clerk must give notice in accordance with 50-1807 of the time the Mayor and Council shall meet to correct the assessments. The meeting will occur no later than March 20 and in the meantime the assessment books will be available for inspection in the office of the Boise City clerk. [50-1807] The meeting may not exceed three (3) working days, and the City clerk shall complete all corrections to the assessment books within five (5) days after the Mayor and Council adjourn and the City clerk shall certify and deliver the assessment books to the City treasurer. [50-1811]
- d. The City treasurer shall publish notice in accordance with 50-1814 that the assessments are due and payable on or before the 1st day of April of each year.

(5818, Added, 10/28/1997)

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Section 8-16-7 TERMS AND CONDITIONS OF SERVICE

1. Payment: All service charges, fees and assessments, including any legally established franchise fees, not paid within thirty (30) days after the due date shall be considered delinquent. By the second Monday of July of each year in which the assessments are levied, the City treasurer shall enter all delinquent assessments and penalties on the assessment roll, which entry shall be dated as of the first day of July of each year. [50-1815] By the third Monday of July of each year in which the assessments were levied, the treasurer shall certify to the City clerk both the collected and the delinquent assessments. [50-1816] The City treasurer must compile an alphabetical list of the delinquent assessments by the fourth Monday of July [50-1817] and shall file a certified copy of the delinquency list with the county recorder also on or before the fourth Monday of July. [50-1818]
2. Disconnection: The following may be a basis for the disconnection of users of the Municipal Irrigation System:
 - a. Nonpayment of charges, fees, and assessments when due and owing.
 - b. Illegal connection to the system.
 - c. When necessary for the protection of the public health and safety.
 - d. Cross connection to a potable water system.
3. Lien: all assessments levied by the City constitute liens and shall be collected in accordance with the provisions of Idaho Code, Title 50, Chapter 18.
4. The City Council may, by resolution, establish fees for the disconnection and reconnection of users to the Municipal Irrigation System.

(5818, Added, 10/28/1997)

Section 8-16-8 PROHIBITED ACTS

1. It shall be unlawful for any person, except one duly authorized by the City, to operate, interfere with, or connect anything with any portion of the City Municipal Irrigation System, i.e. valves, pipes, shutoff valves, ditches, pump stations. Further it shall be unlawful for any person to obstruct the access to any Municipal Irrigation System appurtenances.
2. It shall be unlawful for any person to allow or permit the waste of irrigation water by allowing said water to flow upon or into any storm or sanitary sewer, street, alley or other public right

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of way, or by allowing said water to flow on or upon adjacent or adjoining property so as to cause unnecessary inconvenience or expense to the owner of such adjacent or adjoining property or by using more of said water than good husbandry requires for the maintenance and cultivation of premises being irrigated.

3. It shall be unlawful for any person to: Interconnect or cause to be interconnected the potable and non-potable portions, distribution systems or service lines of dual water supplies or extensions thereof without the installation of an inspected and approved reduced pressure type backflow prevention device.

(5818, Added, 10/28/1997)

Section 8-16-9 ENFORCEMENT

Any person violating any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction shall be subject to a fine of up to \$300 and/or 30 days in jail.

In addition to, and exclusive of the criminal remedy provided by this Chapter, the following civil remedies may be invoked:

- a. Injunction: The City may seek a temporary restraining order or may institute injunctive, abatement or any other appropriate proceedings to prevent or temporarily or permanently enjoin or abate existing or proposed violations of the provisions of this chapter.
- b. Disconnection: The City may discontinue service to any user who fails to comply with the provisions of this Chapter after ten (10) days written notice to comply. Except in the case of a threat to the public health and safety, the user may request a hearing before the Irrigation Commission within ten (10) days of service of notice. The Irrigation Commission shall conduct a hearing at its earliest possible convenience to determine if disconnection should occur. The user shall be given notice of such hearing and shall be given the opportunity to present evidence at such hearing. The determination of the Irrigation Commission shall be in writing and may be appealed to the City Council.
- c. Damages: The City may seek civil damages, enforceable in a court of law, from any person violating the provisions of this Chapter and by such violation causing the City additional costs to maintain and operate the Municipal Irrigation System, or causing the City to be subject to penalties for violation of any State or Federal law.

(5818, Added, 10/28/1997)

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Section 8-16-10APPEALS

Any or user of the system aggrieved by any decision rendered by the Department of Public Works pursuant to this Chapter may appeal the decision to the Boise City Irrigation Commission. Any such appeal shall be in writing, describing the decision and the grounds for appeal, and shall be filed with the Public Works Department within ten (10) days after the date of the administrative decision. The Irrigation Commission shall hold a hearing thereon at its earliest convenience. Notice of the time, place and date of the hearing shall be sent to the aggrieved party at least seven (7) days prior to the hearing date. The decision of the Irrigation Commission shall be in writing and may be appealed to the City Council by the filing of a notice of appeal with the City Clerk within fifteen (15) days of receipt of the written decision.

(5818, Added, 10/28/1997)

Section 8-16-11CITY RIGHTS

AUTHORIZED REPRESENTATIVE; Powers and Authority: The City through its authorized representative bearing proper identification shall be permitted at proper and reasonable hours of the day to enter all properties, premises or buildings to which water is furnished from the Municipal Irrigation System for any purpose necessary for the proper administration of the Municipal Irrigation System. Also, the City through its authorized representative shall be permitted to enter all private properties through which the City holds a duly negotiated easement for any purpose necessary for the maintenance of any portion of the Municipal Irrigation System lying within said easements.

(5818, Added, 10/28/1997)

Section 8-16-12SEVERABILITY

It is the intention of the Council that the provisions of this Chapter are severable, and if any provision of this Chapter shall be declared unconstitutional or invalid by the judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect or invalidate any of the remaining provisions of this Chapter.

(5818, Added, 10/28/1997)