

**AGENDA**

**ITEM**

**NO. 16**

16(a)

SUMMARY OF  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, AMENDING PORTIONS OF CHAPTER 5.28 "CHILD CARE" OF THE REVISED AND COMPILED ORDINANCES OF THE CITY OF POCATELLO, 1983, SPECIFICALLY AMENDING SECTION 5.28.060 "BACKGROUND AND CRIMINAL HISTORY CHECKS" TO COMPLY WITH FEDERAL REGULATIONS; AND PROVIDING THAT THIS ORDINANCE AND THE PROVISIONS CONTAINED HEREIN ESTABLISHED PURSUANT TO THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW

The full text of this ordinance is available at the City Clerk's Office, Pocatello Municipal Building, 911 North 7th, Pocatello, Idaho.

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THE FOREGOING SUMMARY IS APPROVED for publication this \_\_\_\_ day of May, 2020, by the City Council of the City of Pocatello.

CITY OF POCATELLO, a municipal corporation of Idaho

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
RUTH NEWSOM, City Clerk

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I have reviewed the foregoing summary and believe that it provides a true and complete summary of Ordinance No. \_\_\_\_\_ and that the summary provides adequate notice to the public of the contents of this ordinance.

DATED this \_\_\_\_ day of May, 2020.

\_\_\_\_\_  
JARED JOHNSON  
City Attorney

PUBLISH:

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

AN ORDINANCE OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, AMENDING PORTIONS OF CHAPTER 5.28 "*CHILDCARE*" OF THE REVISED AND COMPILED ORDINANCES OF THE CITY OF POCATELLO, 1983, SPECIFICALLY AMENDING SECTION 5.28.060 "*BACKGROUND AND CRIMINAL HISTORY CHECKS*" TO COMPLY WITH FEDERAL REGULATIONS; AND PROVIDING THAT THIS ORDINANCE AND THE PROVISIONS CONTAINED HEREIN ESTABLISHED PURSUANT TO THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, on July 19, 2018, Ordinance No. 3011 was adopted by the City Council amending certain portions of the Pocatello Municipal Code 5.28 pertaining to background checks for childcare providers; and

WHEREAS, in September of 2018, the Idaho State Police requested that the Criminal Justice Information Law Unit (CJILU) of the Federal Bureau of Investigations review Ordinance 3011 to determine if Pocatello Municipal Code 5.28.060 qualified for access to FBI criminal history record information pursuant to Public Law 92-544; and

WHEREAS, CJILU's legal staff determined that the amended PMC 5.28.060 did not qualify for access to FBI criminal history record information under the criteria set for in Public Law 92-544;

WHEREAS, based on communication between the FBI and city staff from the Pocatello Police and Legal Departments, the following changes have been recommended to PMC 5.28.060.

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

Section 1: That Chapter 5.28.060 "Background and Criminal History Checks" shall be amended to read as follows:

**5.28.060: BACKGROUND AND CRIMINAL HISTORY CHECKS:**

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C. The Applicant shall provide fingerprints and information necessary to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to section 67-3008, Idaho Code, and congressional enactment Public Law 92-544, the City staff shall submit a set of the applicant's fingerprints and the required fees on forms prescribed by the State to the Idaho State Police, Bureau of Criminal Identification (or any other agency which may hereafter be so authorized in its place by the state) for a criminal records check of State and national databases. The Licensing Department within the Police Department shall receive the information from the Idaho State Police and from the Federal Bureau of Investigation and shall use it to evaluate the fitness of applicants for the licenses, pursuant to standards and criteria separately set out in this title.

~~1. If an applicant for a license under this chapter has never held such license, the following checks shall be conducted:~~

~~a. Current state or residence:~~

~~National FBI Fingerprint Criminal History Check  
NCIC National Sex Offender Registry Check  
In-State Criminal History Check  
In-State Sex Offender Registry Check  
In-State Child Abuse and Neglect Registry Check~~

~~b. Previous state(s) of residence for last 5 years:~~

~~State Criminal History Check  
State Sex Offender Registry Check  
State Child Abuse and Neglect Registry Check~~

~~2. If an applicant for a license under this Chapter is renewing such license, the following checks shall be conducted upon the renewal for applicant's fifth year of employment under such license:~~

~~a. Current state or residence:~~

~~National FBI Fingerprint Criminal History Check  
NCIC National Sex Offender Registry Check  
In-State Criminal History Check~~

~~In State Sex Offender Registry Check~~  
~~In State Child Abuse and Neglect Registry Check~~

b. ~~Previous state(s) of residence for last 5 years:~~

~~State Criminal History Check~~  
~~State Sex Offender Registry Check~~  
~~State Child Abuse and Neglect Registry Check~~

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Section 2: That all other sections of Chapter 5.28 shall remain in full force and effect.

Section 3: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF POCA TELLO, a municipal  
corporation of Idaho

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
RUTH NEWSOM, City Clerk

16(b)

SUMMARY OF  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, REPEALING ORDINANCE NO. 3018, WHICH REVISED TITLE 10, "VEHICLES AND TRAFFIC" OF THE POCATELLO MUNICIPAL CODE, BY ADDING CHAPTER 8, SECTION 270 "DISTRACTED DRIVING", AND PROVIDING AN EFFECTIVE DATE FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

The full text of this ordinance is available at the City Clerk's Office, Pocatello Municipal Building, 911 North 7th, Pocatello, Idaho.

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THE FOREGOING SUMMARY IS APPROVED for publication this \_\_\_\_ day of May, 2020, by the City Council of the City of Pocatello.

CITY OF POCATELLO, a municipal  
corporation of Idaho

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
RUTH NEWSOM, City Clerk

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I have reviewed the foregoing summary and believe that it provides a true and complete summary of Ordinance No. \_\_\_\_\_ and that the summary provides adequate notice to the public of the contents of this ordinance.

DATED this \_\_\_\_\_ day of May, 2020.

\_\_\_\_\_  
JARED JOHNSON  
City Attorney

PUBLISH:

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

AN ORDINANCE OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, REPEALING ORDINANCE NO. 3018, WHICH REVISED TITLE 10, "*VEHICLES AND TRAFFIC*" OF THE POCATELLO MUNICIPAL CODE, BY ADDING CHAPTER 8, SECTION 270 "*DISTRACTED DRIVING*", AND PROVIDING AN EFFECTIVE DATE FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, on December 6, 2018, the Pocatello City Council adopted Ordinance No. 3018 revising Title 10, "Vehicles and Traffic" to include Chapter 8, Section 270 entitled "Distracted Driving" which prohibited the use of mobile electronic devices while driving, allowed enforcement officers of the City of Pocatello to stop vehicles for such violations and provided penalties thereto; and

WHEREAS, the State of Idaho has passed House Bill 614 which repeals and replaces Idaho Code Section 49-1401A, a statewide law regarding the use of mobile electronic devices while driving; and

WHEREAS, because Idaho Code Section 49-1401A "supersedes any local laws, ordinances, orders, rules, or regulations enacted by any political subdivision or municipality to regulate the use of a mobile electronic device by the operator of a motor vehicle" this repeal is necessary; and

WHEREAS, the newly adopted Idaho Code Section 49-1401A shall be effective July 1, 2020,

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

*Section 1:* That Ordinance 3018 shall be repealed as of June 30, 2020 at 11:59:59pm.

*Section 2:* That this Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND APPROVED this 7th day of May, 2020.

CITY OF POCA TELLO, a municipal  
corporation of Idaho

\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:

\_\_\_\_\_  
RUTH NEWSOM, City Clerk



ORDINANCE NO. 3018

AN ORDINANCE OF THE CITY OF POCATELLO, A MUNICIPAL CORPORATION OF IDAHO, REVISING TITLE 10, "*VEHICLES AND TRAFFIC*" OF THE POCATELLO MUNICIPAL CODE, MORE PARTICULARLY BY ADDING CHAPTER 8, SECTION 270 "*DISTRACTED DRIVING*", PROHIBITING THE USE OF MOBILE ELECTRONIC DEVICES WHILE DRIVING; ESTABLISHING PENALTIES; ALLOWING LAW ENFORCEMENT OFFICERS OF THE CITY OF POCATELLO TO STOP VEHICLES FOR VIOLATIONS; PROVIDING THAT ALL OTHER SECTIONS OF TITLE 10 NOT HEREIN AMENDED SHALL REMAIN IN FULL FORCE AND EFFECT; AND PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, it is the desire of the City of Pocatello to encourage and promote safe driving habits, regulate the safe use of mobile electronic devices in motor vehicles, and to reduce vehicle accidents, injury to people, and damage to property; and

WHEREAS, distractions that divert attention from the task of driving are inherently dangerous to the drivers, their passengers, and others on or near the roadway; and

WHEREAS, mobile electronic devices, if used improperly or at inappropriate times while driving, contribute to driver distractions; and

WHEREAS, this Ordinance is being adopted and enforced as a reasonable exercise of municipal police powers granted to the City pursuant to Idaho Code Title 50, Chapter 3, and as a temporary regulation necessary to cover the special condition of driving while using a mobile electronic device in the absence of a State-wide regulation of the same; and

WHEREAS, this Ordinance shall be reviewed and assessed on or before January 1, 2022, to determine whether this Ordinance should be revoked or continued.

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

*Section 1:* That a new Section 270 of Chapter 8, Title 10, "Distracted Driving", of the Revised and Compiled Ordinances of the City of Pocatello, 1983, be hereby enacted to read as follows:

**10.08.270: DISTRACTED DRIVING:**

**A. DEFINITIONS:**

1. **MOBILE ELECTRONIC DEVICE:** Any handheld or portable electronic device capable of receiving, producing, displaying, or providing wireless data or voice communication, including a cellular telephone; broadband personal communication device; two-way messaging device; text messaging device; pager; electronic device that can receive or transmit text or character-based images, access or store data or connect to the internet; personal digital assistant; laptop computer; computer tablet; stand-alone computer; portable computing device; mobile device with a touchscreen display that is designed to be worn; electronic games; equipment that is capable of playing a video, taking photographs, capturing images or recording or transmitting video; and any similar device that is readily removable from a vehicle and may be used to write, send or read text or data or capture images or video through manual input. "Mobile electronic device" shall not include a radio designed for the citizen's band service or the amateur radio service of the Federal Communications Commission or a commercial two-way radio communications device.
2. **MOTOR VEHICLE:** A device or vessel classified as a "motor vehicle" in Idaho Code Section 49-123(2)(h).
3. **OPERATE:** Driving or occupying the driver's position of a motor vehicle upon a public way, street, road or highway. "Operate" shall not include a motor vehicle that is lawfully parked or standing.
4. **PARK:** Park or Parked shall mean for the operator to completely cease movement of a motor vehicle in a lawful manner and location. For purposes of this section, "parked" does not include or mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions on the roadway, or traffic congestion patterns then existing.
5. **STANDING:** Standing shall mean for the operator to completely cease movement of a motor vehicle in a lawful manner and location. For purposes of this section, "standing" does not include or mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions on the roadway, or traffic congestion patterns then existing.

**B. USE OF MOBILE ELECTRONIC SERVICES PROHIBITED.** Except as specifically provided in this Chapter, no person shall operate a motor vehicle while using a mobile electronic device.

**C. EXCEPTIONS:** The provisions of this Chapter shall not apply to:

1. A law enforcement officer, firefighter, emergency medical technician, paramedic, operator of an authorized emergency vehicle or similarly engaged paid or volunteer public safety first responder during the performance of that person's official duties, and a public utility employee or contractor acting within the scope of that person's employment when responding to a public utility emergency.
2. The use of a mobile electronic device including a text messaging device, for emergency purposes. "Emergency purposes" include, contacting a 911 system; reporting an emergency to a law enforcement agency, health care provider, fire department or other emergency services agency or entity; reporting a fire, traffic accident, serious road hazard or medical or hazardous materials emergency to appropriate authorities; and reporting the operator of another motor vehicle who is driving in a reckless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs to law enforcement.
3. Use of a global positioning or navigation system feature of a mobile electronic device, provided that the operator of the vehicle is not manually entering information into the global positioning or navigation system feature of the device and the device is not in the operator's hands while operating the motor vehicle.
4. Use of a mobile electronic device in a voice-operated or hands free mode, only where the operator of the motor vehicle does not use their hands to operate the device, except to activate or deactivate the voice-operated function of device.

D. **AUTHORITY FOR PRIMARY VEHICLE STOP:** A law enforcement officer of the City is hereby authorized to utilize this Chapter as the primary or sole reason for initiating a traffic stop and/or issuing a citation to a driver.

E. **PENALTIES:** Unless otherwise provided herein, any person who violates this Chapter is guilty of an infraction in an amount set from time to time by Resolution of the Council. A conviction under this Chapter shall not result in violation point counts as prescribed in section 49-326, Idaho Code. In addition, a conviction under this section shall not be deemed to be a moving traffic violation for the purpose of establishing rates of motor vehicle insurance charged by a casualty insurer. Any person who violates this Section more than three (3) times within a two (2) year period is guilty of a misdemeanor punishable as set forth in Pocatello Municipal Code 1.04.040.

**Section 2:** That all other Sections of Title 10 "Vehicles and Traffic" shall remain in full force and effect.

**Section 3:** This Ordinance is a temporary regulation necessary to cover the special condition of driving while using a mobile electronic device in the absence of a State-wide regulation of the same. The Council shall review and assess the necessity of this temporary Ordinance on or before January 1, 2022, to determine whether it should continue as a temporary Ordinance or should be revoked.

BE IT FURTHER ORDAINED THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

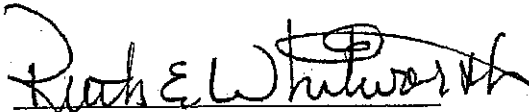
PASSED AND APPROVED this 6<sup>th</sup> day of December, 2018.

CITY OF POCA TELLO, a municipal  
corporation of Idaho



\_\_\_\_\_  
BRIAN C. BLAD, Mayor

ATTEST:



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RUTH E. WHITWORTH, City Clerk