



Eric Milstead
Director

Legislative Services Office

Idaho State Legislature

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MEMORANDUM

TO: Senators LODGE, Guthrie, Stennett and,
Representatives CRANE, Armstrong, Gannon

FROM: Ryan Bush - Principal Legislative Drafting Attorney

DATE: February 03, 2021

SUBJECT: Temporary Rule

IDAPA 38.04.08 - Rules Governing Use of Idaho State Capitol - Adoption of Temporary Rule - Docket
No. 38-0408-2101

We are forwarding this temporary rule to you for your information only. No analysis was done by LSO. This rule is posted on our web site. If you have any questions, please call Ryan Bush at the Legislative Services Office at (208) 334-4845. Thank you.

Attachment: Temporary Rule

Kristin Ford, Manager
Research & Legislation

Paul Headlee, Manager
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IDAPA 38 – DEPARTMENT OF ADMINISTRATION
38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL
DOCKET NO. 38-0408-2101
NOTICE OF RULEMAKING – ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 7, 2021.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Sections 67-1604, Idaho Code.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule:

There is currently a rule that designates use of the exterior of the Capitol Building (Chapter 38.04.08); there is no official rule that addresses use of the interior of the Capitol Building specifically.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section 67-5226(1)(a), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

Events at the Capitol and most recently during the Special Session of the Legislature in August, have made it apparent that formal rules are necessary for the Department of Administration and the Idaho State Police to provide for the safety of building tenants and the visiting public.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee(s) or charge(s) being imposed or increased is justified and necessary to avoid immediate danger and the fee(s) is described herein: N/A

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Keith Reynolds, (208) 332-1812.

Dated this 7th day of January, 2021.

Keith Reynolds, Director
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P.O. Box 83720
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 38-0408-2101
(This chapter is being published in its entirety.)

38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL ~~EXTERIOR~~

000. LEGAL AUTHORITY.

Section 67-1604, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing access to and use by the public of the capitol building and its grounds after consultation with the governor, the presiding officers of the senate and house of representatives, and the Capitol Commission. Section 67-5709, Idaho Code, gives the Director authority to promulgate rules governing certain public facilities, subject to the provisions of Section 67-1602, Idaho Code, which determines the control and allocation of space in the Idaho State Capitol, and after making the consultations required in Section 67-1604, Idaho Code. ~~(3-27-13)(1-7-21)T~~

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.04.08, “Rules Governing Use of Idaho State Capitol ~~Exterior.~~” ~~(3-27-13)(1-7-21)T~~

02. Scope. These rules contain the provisions for use of the ~~exterior of the~~ Idaho State Capitol. Rules governing the exterior of the other state facilities are codified under IDAPA 38.04.06, “Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities.” Rules governing the interior of the Capitol Mall properties, other state properties, and the multi-agency facilities are codified under IDAPA 38.04.07, “Rules Governing Use of Interior State Property in the Capitol Mall and Other State Facilities.” Rules governing parking are codified under IDAPA 38.04.04, “Capitol Mall Parking Rules.” ~~(3-27-13)(1-7-21)T~~

03. Application to Space Controlled by the Idaho Legislature. The Idaho legislature is exempt from the application of the Idaho Administrative Procedure Act, pursuant to Section 67-5201(2), Idaho Code. Space within the Idaho State Capitol controlled by the Idaho legislature is governed by Section 67-1602(3), Idaho Code, and rules enacted under the procedures of the Idaho legislature. ~~(1-7-21)T~~

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)

02. Capitol Commission. The Idaho State Capitol Commission established in Section 67-1606, Idaho Code. ~~(1-7-21)T~~

023. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)

034. Department. The Department of Administration. (3-27-13)

045. Director. The Director of the Department of Administration or his designee. (3-27-13)

06. Display. An attended exhibition or installation of physical items during an Event. ~~(1-7-21)T~~

07. Event. Any activity including, but not limited to, arts or cultural presentations, weddings, dinners, award ceremonies, memorials, and seminars. ~~(1-7-21)T~~

08. Exhibit. Exhibitions or installations of physical items outside of an Event including, but not limited to, commemorative installations, floral displays, art objects, historical artifacts, and cultural objects. ~~(1-7-21)T~~

09. ~~State Capitol~~ Exterior. The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or on its grounds, ~~all of which is located at capitol square~~

~~as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The State Capitol Exterior is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street.~~ (3-27-13)(1-7-21)T

10. Idaho State Capitol. The building and grounds governed by chapter 16, title 67, Idaho Code, and located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The Idaho State Capitol is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street. (1-7-21)T

11. Interior. The interior spaces within the Idaho State Capitol. (1-7-21)T

~~12.~~ **Jefferson Steps.** The building entrance at the second floor of the Idaho State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the public sidewalk along Jefferson Street. (3-27-13)(1-7-21)T

13. Law Enforcement. An officer of the Idaho state police, Ada County sheriff's office, or Boise City police granted authority to enforce the laws of the state of Idaho and ordinances for the Idaho State Capitol pursuant to Section 67-1605, Idaho Code, or any peace officer as defined in Section 19-5101, Idaho Code, or an equivalent law enforcement officer in the service of the United States who is authorized by law or the Idaho State Police to exercise jurisdiction at the Idaho State Capitol. (1-7-21)T

14. Legislative Galleries. The areas of the Interior overlooking the Senate and the House and accessed from the fourth floor of the Interior. (1-7-21)T

15. Legislative Hearing Rooms. A room in the Interior holding a meeting of a committee of the Idaho legislature. (1-7-21)T

~~16.~~ **Permit.** A written authorization issued by the Director allowing use of the Idaho State Capitol Exterior as set forth in the Permit. A Permit serves as a reservation to use a portion of the Idaho State Capitol Exterior with the priority for use set forth in Subsection 200.04 of these rules. (3-27-13)(1-7-21)T

17. Presiding Officer. The Presiding Officer of the Senate is the President Pro Tempore. The Presiding Officer of the House is the Speaker. The Presiding Officer of a standing, joint, or special legislative committee is the legislator chairing the committee hearing. (1-7-21)T

~~18.~~ **Private Event or Private Exhibit.** Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)

19. Private Space. The portion of the Interior that is not Public Space. (1-7-21)T

20. Public Space. The portion of the Interior that is maintained by the Department pursuant to Section 67-1602(1), Idaho Code, and is not designated as closed to the public by being marked "private," "no admission," "staff only," or similarly designated as not open to the public. (1-7-21)T

~~21.~~ **Public Use.** Use that is not: (3-18-14)

- a. A State Event or Exhibit; (3-18-14)
- b. Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; or (3-18-14)
- c. State Maintenance and Improvements. (3-18-14)

~~22.~~ **Security Personnel.** A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

~~4023.~~ **State Business Day.** Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (3-27-13)

~~424.~~ **State Events and Exhibits.** All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

~~425.~~ **State Maintenance and Improvements.** Maintenance or improvement of the Idaho State Capitol ~~Exterior~~ by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting; and structural maintenance such as pressure washing, painting, window cleaning, and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. ~~(3-27-13)~~(1-7-21)T

011. -- 199. (RESERVED)

200. USE OF IDAHO STATE CAPITOL ~~EXTERIOR~~.

01. Authorized Uses by the Public. (1-7-21)T

a. Except as provided otherwise in these rules, the ~~State Capitol~~ Exterior and the Public Space is available for Public Use. ~~(3-18-14)~~(1-7-21)T

b. Public access to Private Space occupied by a state of Idaho officer, official, agency, board or commission, including an elected official other than a legislator, is limited to the conduct of business with the occupant of the space. (1-7-21)T

c. Unless otherwise directed by the Presiding Officer, public access to space controlled by the Idaho legislature is limited to the Legislative Galleries, Legislative Hearing Rooms, and the conduct of legislative business with a legislator. (1-7-21)T

d. Temporary and permanent placement of Exhibits in the Public Space shall be reviewed by the Capitol Commission in accordance with Section 67-1608(3), Idaho Code. Placement of Exhibits does not include Displays during a Public Use permitted by these rules. (1-7-21)T

02. **Prohibited Uses.** The following uses are prohibited ~~in~~ at the Idaho State Capitol ~~Exterior~~: ~~(3-27-13)~~(1-7-21)T

a. Commercial Activity. The ~~State Capitol~~ Exterior and the Public Space shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service on the ~~State Capitol~~ Exterior or in the Public Space. Events promoting an industry, product or service in the Public Space under a Permit are not prohibited by this rule if the Event is limited to Displays, distribution of information, including literature, or both and participants are not soliciting orders or contracts for a product or service. ~~(3-27-13)~~(1-7-21)T

b. Camping. (3-27-13)

c. Private Events and Private Exhibits. (3-27-13)

03. **Priority of Uses.** State Maintenance and Improvements shall have priority over all other use of the Idaho State Capitol ~~Exterior~~. The conduct of business by the public entity or official occupying or controlling Private Space shall have priority over Public Use of the Idaho State Capitol. Public Use held under a Permit shall have priority over other Public Use. ~~(3-18-14)~~(1-7-21)T

04. Use of Space Controlled by the Idaho Legislature. Use of space controlled by the Idaho legislature, including Public Use, shall be governed by chapter 16, title 67, Idaho Code, and the rules adopted by the Idaho legislature as described in Subsection 001.03 of these rules. (1-7-21)T

201. (RESERVED)

202. EQUIPMENT AND SUPPLIES.

Except as provided in these rules, the Department will not provide equipment or supplies for use on the Idaho State Capitol Exterior. Where requested in a Permit application for use of the Jefferson Street Steps or the Public Space, the Department ~~may~~ shall provide a podium and a public address system, unless such equipment is being repaired or replaced. ~~(3-27-13)~~(1-7-21)T

203. ESTABLISHMENT OF PERIMETERS.

Security ~~p~~Personnel and ~~L~~Law ~~e~~Enforcement may establish perimeters separating participants in Public Use of the Idaho State Capitol Exterior or State Events or Exhibits. Participants in and observers of any Public Use or State Events or Exhibits shall observe perimeters set pursuant to this section. ~~(3-18-14)~~(1-7-21)T

204. AREA CLOSURES.

The Director may direct that any portion of the Idaho State Capitol Exterior be closed for Public Use upon a finding that the closed portion of the Idaho State Capitol Exterior has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the Idaho State Capitol Exterior closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the Idaho State Capitol Exterior. Circumstances presenting an imminent danger of damage to the State Capitol Exterior include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. ~~(3-18-14)~~(1-7-21)T

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.

The restrictions and limitations on use of the Idaho State Capitol Exterior set forth in Sections 301 through 399 of these rules shall apply to all Public Use of the Idaho State Capitol Exterior. ~~(3-18-14)~~(1-7-21)T

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. **Interference With Primary Use of Idaho State Capitol Exterior.** Events, ~~e~~Exhibits, and Public Use of the Idaho State Capitol Exterior shall not interfere with the primary use of the Idaho State Capitol ~~or the adjacent real property and improvements~~. The primary uses of the Idaho State Capitol ~~includes, but is not limited to,~~ are legislative proceedings, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the Idaho State Capitol ~~or the State Capitol Exterior~~. ~~(3-18-14)~~(1-7-21)T

02. **Interference With Access.** Public Use of the Idaho State Capitol Exterior shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the Idaho State Capitol Exterior. ~~(3-18-14)~~(1-7-21)T

302. LOCATIONS AND HOURS.

01. **Interior Hours.** The hours for Public Use and public access to the Interior shall include the periods in which public meetings and other activities open to the public are held within the Interior. The hours for Public Use will be posted, where feasible, to the website containing official Idaho State Capitol information. Participants in Public Use of the Interior shall exit the Interior at the conclusion of the hours for Public Use. Public hours shall not be reduced during Public Use authorized under these rules unless an emergency or threat exists under Section 315 of these rules. ~~(1-7-21)T~~

02. **Exterior Use Locations.** In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire, health, and safety codes, Public Use on the State Capitol Exterior shall be: ~~(3-18-14)~~(1-7-21)T

- a. On the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the State

~~Capitol~~ Exterior; and

~~(3-18-14)~~(1-7-21)T

- b. At least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. (3-18-14)

303. MAINTENANCE AND IMPROVEMENTS.

Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the ~~Department's website address set forth in Section 005 of these rules.~~ The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. ~~(3-18-14)~~(1-7-21)T

304. MOTORIZED VEHICLES.

Motorized vehicles not owned or operated by the state of Idaho or ~~L~~aw ~~e~~Enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles shall be governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to ~~the disabled individuals with a disability~~ are not motorized vehicles for the purposes of this section. ~~(3-27-13)~~(1-7-21)T

305. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.

Bicycles, skates, skateboards, and scooters may not be used ~~on~~ at the ~~Idaho~~ State Capitol ~~Exterior~~. Users of all other non-motorized transportation must remain on designated pathways during use ~~of the Exterior~~. Where indicated by a posted notice or where requested by Security Personnel, ~~L~~aw ~~e~~Enforcement or a state employee or agent supervising the ~~Idaho~~ State Capitol ~~Exterior~~, users must store non-motorized transportation in a designated storage area on the ~~State Capitol~~ Exterior. Wheelchairs and other equipment providing individual mobility to ~~the disabled individuals with a disability~~ are not non-motorized transportation for the purposes of this section. ~~(3-27-13)~~(1-7-21)T

306. ANIMALS.

The following shall apply to animals on the ~~Idaho~~ State Capitol ~~Exterior~~:

~~(3-27-13)~~(1-7-21)T

01. **Wildlife.** Unless authorized by the Director no person shall: (3-27-13)

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw any object at a wild animal on the ~~State Capitol~~ Exterior. ~~(3-27-13)~~(1-7-21)T

b. No person shall feed, give or offer food or any noxious substance to a wild animal on the ~~State Capitol~~ Exterior. ~~(3-27-13)~~(1-7-21)T

02. **Domestic Animals.** (3-27-13)

a. Domestic animals are not allowed on the ~~State Capitol~~ Exterior unless leashed and under the control of the person bringing the animal to the ~~State Capitol~~ Exterior. ~~(3-27-13)~~(1-7-21)T

~~b. Domestic animals are not allowed in the Interior unless the animal is a service animal necessary to assist individuals with disabilities or an animal in the service of Law Enforcement. Animals allowed under this rule must be leashed and under the control of the person bringing the animal to the Interior.~~ (1-7-21)T

~~b.c.~~ The person bringing the ~~domestic~~ animal to the ~~Idaho~~ State Capitol ~~Exterior~~ shall have in his possession the equipment necessary to remove the animal's fecal matter and shall immediately remove all fecal matter deposited by the animal. ~~(3-27-13)~~(1-7-21)T

307. LANDSCAPING AND IMPROVEMENTS.

No person other than state employees or contractors designated by the Director shall:

~~(3-27-13)~~(1-7-21)T

01. **Plants.** Damage, cut, carve, transplant or remove any plant including, but not limited to, trees, on the ~~State Capitol~~ Exterior. ~~(3-27-13)~~(1-7-21)T

02. **Grass.** Dig in or otherwise damage grass areas on the ~~State Capitol~~ Exterior. ~~(3-27-13)~~(1-7-21)T

03. **Irrigation Equipment.** Interfere with, damage or remove irrigation equipment on the ~~State Capitol~~ Exterior. ~~(3-27-13)(1-7-21)T~~

04. **Landscaping Materials.** Move or alter landscaping materials on the ~~State Capitol~~ Exterior including, but not limited to, rock, edging materials, and bark or mulch. ~~(3-27-13)(1-7-21)T~~

05. **Climbing.** Climb or scale buildings, Commemorative Installations, trees, fences, posts or other improvements ~~on~~ at the Idaho State Capitol ~~Exterior~~. ~~(3-27-13)(1-7-21)T~~

308. FOOD AND BEVERAGES.

Consumption of food and beverages ~~on~~ at the Idaho State Capitol ~~Exterior~~ is subject to the following: ~~(3-27-13)(1-7-21)T~~

01. **Consumption May Be Prohibited.** The consumption of food and beverages, including water, may be prohibited by a notice posted at the entrance to all or a portion of the ~~State Capitol~~ Exterior. Each authority granted control of a portion of the Interior as described in Section 67-1602, Idaho Code, may prohibit the consumption of food and beverages, including water, in that portion of the Interior by posting a notice at one (1) or more of the entrances to the portion of the Interior under its control. ~~(3-27-13)(1-7-21)T~~

02. **Alcohol.** Alcohol may not be consumed or distributed on the ~~State Capitol~~ Exterior or the Public Space. ~~(3-27-13)(1-7-21)T~~

309. SMOKING AND VAPING.

All persons shall observe the smoke free entrance notices and shall smoke or vape only in designated areas of the ~~State Capitol~~ Exterior. Smoking and vaping is not allowed in the Interior ~~(3-27-13)(1-7-21)T~~

310. FIRES, CANDLES, AND FLAMES.

No fires, candles or other sources of open flame are permitted ~~on~~ at the Idaho State Capitol ~~Exterior~~. ~~(3-27-13)(1-7-21)T~~

311. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. **Electrical Cords.** Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (3-27-13)

02. **Railings.** No items may be placed on railings and no persons shall sit or stand on railings. (3-27-13)

03. **Tossing or Dropping Items.** No items may be tossed or dropped over railings or from one (1) level of the Idaho State Capitol or improvements ~~on the grounds of~~ at the Idaho State Capitol ~~Exterior~~ to another level or to the ground. ~~(3-27-13)(1-7-21)T~~

04. **Ingress or Egress.** No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the Idaho State Capitol ~~Exterior~~, or to restrict the ~~follow~~ flow of individuals using the facility, or to restrict emergency egress or ingress. ~~(3-27-13)(1-7-21)T~~

05. **Attaching, Affixing, Leaning or Propping Materials.** Posters, placards, banners, signs, and ~~d~~Displays, including any printed materials, shall not be affixed on any ~~exterior~~ surface of the Idaho State Capitol ~~Exterior~~ or on any ~~permanent~~ Exhibit or Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and ~~d~~Displays must be free-standing or supported by individuals. No items may be leaned or propped against any ~~exterior~~ surface of the Idaho State Capitol ~~Exterior~~ or embedded into the ground including, but not limited to, placement of a stake, post or rod into the ground to support materials. ~~(3-27-13)(1-7-21)T~~

06. **Materials Causing Damage to Surfaces.** Stages, risers, chairs, tables, sound equipment, props,

materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface on the Idaho State Capitol Exterior or any systems or utilities of the Idaho State Capitol Exterior including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. ~~(3-27-13)~~(1-7-21)T

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the Idaho State Capitol Exterior that such material is not discarded outside of designated trash receptacles. ~~(3-27-13)~~(1-7-21)T

08. Surface Markings. Users shall not use any material to mark on any surface of the Idaho State Capitol Exterior including chalk, paint, pens, ink, or dye. ~~(3-27-13)~~(1-7-21)T

09. Capacity. The number of users in the Interior is limited to the capacity designated by health and safety officials including, but not limited to, the state fire marshal, the division of building safety, and the department of health and welfare. (1-7-21)T

10. Moving Furniture and Items. The public shall not move furnishings owned by the state of Idaho or placed by agents or employees of the state of Idaho at the Idaho State Capitol, including chairs, benches, tables, signs, art, memorials, statues, or Exhibits. (1-7-21)T

11. Sound Amplification. Except for amplification provided by the Department under a Permit and use by Law Enforcement or Security Personnel or by state employees and officials under Subsection 315.01 of these rules, sound amplification devices shall not be used in the Interior. (1-7-21)T

312. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel and ~~L~~aw ~~e~~Enforcement may inspect: ~~(3-27-13)~~(1-7-21)T

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by law, including these rules. ~~(3-27-13)~~(1-7-21)T

02. Items. Items brought ~~on~~to the Idaho State Capitol Exterior, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property ~~on~~ at the Idaho State Capitol Exterior of disrupting the primary uses of the Idaho State Capitol in violation of law, including these rules. ~~(3-27-13)~~(1-7-21)T

313. PROHIBITED ITEMS.

The following, as defined in ~~T~~itle 18, ~~C~~hapter 33, Idaho Code, are not permitted at the Idaho State Capitol Exterior: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or ~~L~~aw ~~e~~Enforcement may direct that any person at the Idaho State Capitol Exterior immediately remove from the Idaho State Capitol Exterior any club, bat, or other item that can be used in violation of law, including these rules, to injure, damage, or harm persons or property or to disrupt the primary uses of the Interior. ~~(3-27-13)~~(1-7-21)T

314. UTILITY SERVICE.

The public may not use the utility services of the Idaho State Capitol Exterior other than restrooms and drinking fountains; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the Idaho State Capitol Exterior or the equipment or apparatus using utility service fails to comply with applicable rules or codes. ~~(3-18-14)~~(1-7-21)T

315. LAW ENFORCEMENT AND FACILITY EXIGENCY – REMOVAL FOR NON-COMPLIANCE.

01. Emergency or Threat. In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, ~~L~~aw ~~e~~Enforcement, ~~s~~Security ~~p~~Personnel and state employees or officials may direct all persons off of or out of the Idaho State Capitol Exterior and delay or postpone any activity until the emergency or threat is abated. ~~(3-18-14)~~(1-7-21)T

02. Removal. The Director, the Presiding Officer, or their designees are authorized to request that Law Enforcement remove or exclude any person from the Interior who engages in any of the following: (1-7-21)T

a. Violation of law, including these rules, where such violation: (1-7-21)T

i. Interferes with the primary uses of the Idaho State Capitol, injures persons or property, or is likely to injure persons or property, or, (1-7-21)T

ii. Law Enforcement, Security Personnel, the Presiding officer, or the Director or his designee has requested compliance with the applicable law, including provisions of these rules, and the person has refused to comply. (1-7-21)T

b. Engaging in a riot, unlawful gathering or a gathering designed to impede the business of the state of Idaho in violation of Sections 18-6401 or 18-6404, Idaho Code. (1-7-21)T

316. COMPLIANCE WITH LAW.

All use of the Idaho State Capitol Exterior shall comply with applicable law including, but not limited to, fire, health, and safety codes. (3-27-13)(1-7-21)T

317. HEALTH, SAFETY AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the Idaho State Capitol Exterior in reasonably clean condition after use, including depositing all trash in designated receptacles. (3-27-13)(1-7-21)T

02. Return of Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the event or exhibit use. (3-18-14)(1-7-21)T

03. Public Health. No person shall excrete human waste at the Idaho State Capitol Exterior except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (3-27-13)(1-7-21)T

04. Fireworks. No person shall possess or use fireworks on at the Idaho State Capitol Exterior. (3-27-13)(1-7-21)T

05. Attire. Persons in the Interior shall be fully clothed. Fully clothed means wearing shoes and one (1) or more garments extending from the wearer's shoulders to the wearer's legs. (1-7-21)T

318. -- 399. (RESERVED)

400. PERMITS.

01. Use Without a Permit. A Permit grants a reservation providing priority for use of the area specified in the Permit as set forth in Subsection 200.04 of these rules. Applicants desiring to obtain a Permit for use of the State Capitol Exterior or the Public Space outside of the Permit areas, hours or duration or who have not submitted an application within the application period may use the State Capitol Exterior or the Public Space, subject to the provisions of these rules, on a first-come, first used basis. Permits will be issued to groups of two (2) or more people. (3-18-14)(1-7-21)T

02. Permit Areas, Hours and Duration, and Number of Participants. (3-18-14)

a. The Director will consider and grant Permits only for: (1-7-21)T

i. Public Use of the Jefferson Street Steps; and (1-7-21)T

- ii. Public Use of the Public Space on the second floor rotunda. ~~(3-18-14)~~(1-7-21)T
 - b. The Director will issue Permits for the following periods: (1-7-21)T
 - i. ~~Reserving use of the Jefferson Street Steps only for the period between the hours of 7 a.m. and 6 p.m. on State Business Days; and~~ ~~(3-18-14)~~(1-7-21)T
 - ii. Reserving the Public Space on the second floor rotunda during the hours of use in Section 302 of these rules. (1-7-21)T
 - c. The duration of a Permit for the Jefferson Street Steps will not exceed four (4) consecutive hours. ~~(3-27-13)~~(1-7-21)T
The duration of a Permit for the Public Space will not exceed eight (8) consecutive hours.
 - d. The Director will issue a Permit only for Public Use involving two (2) or more persons. (3-18-14)
 - 03. Application Period.** Permit applications must be received and complete at least two (2) State Business Days prior to the requested date and time period of the Permit. The Department will not accept applications submitted more than six (6) months prior to the requested date of the Permit. (3-18-14)
 - 04. Validity.** Permits are valid only for the dates, times, and locations specified on the Permit as approved by the Director. (3-27-13)
 - 05. Distribution.** Permits shall be granted by the Director on a first-come, first-served basis, subject to Subsection 200.03 of these rules. Only one (1) Permit will be granted for the Jefferson Street Steps or the Public Space during any period of time. ~~(3-27-13)~~(1-7-21)T
 - 06. Application Requirements.** Applications for a Permit shall be in writing on a form prescribed by the Director and available at the office of the Division of Public Works and the Department's website. The Director will only process applications that are complete and signed by the individual making a request or an authorized representative of the entity or organization making the request. The Director may make reasonable inquiry to confirm the accuracy of the application and the authority of the party signing the application. (3-27-13)
 - 07. Conditions.** The Director may impose reasonable conditions on the use of the Idaho State Capitol Exterior in the Permit for the purpose of protecting persons and property. Conditions may include the acquisition of liability insurance and a bond as security for costs arising from the use. ~~(3-27-13)~~(1-7-21)T
 - 08. Transferability.** Permits are non-transferable. (3-27-13)
- 401. APPROVALS AND DENIALS OF A PERMIT APPLICATION.**
- 01. Period for Approval or Denial.** The Department will approve or deny a complete application within two (2) State Business Days of the submission of the application. (3-18-14)
 - 02. Basis for Denial.** Permits may be denied for one (1) or more of the following: (3-27-13)
 - a. A Permit has been granted for all or part of the requested location during all or part of the requested time period. (3-27-13)
 - b. A public entity or official will be using all or part of the requested location during all or part of the requested time period. (3-27-13)
 - c. The requested use would violate any provision of these rules or applicable law. (3-27-13)
 - d. These rules do not authorize the use for the location or times requested or do not authorize the issuance of a Permit for the location requested. (3-27-13)
 - e. The Permit application is incomplete, contains a material falsehood, or contains a material

- misrepresentation. (3-27-13)
- f. The Permit applicant has not certified that the applicant will comply with these rules or applicable law. (3-27-13)
- g. The party signing the application is not legally competent to bind themselves or the organization or entity submitting the application. (3-27-13)
- h. The individual, organization or entity submitting the application: (3-27-13)
- i. Failed to pay costs or damages arising from an earlier use of any state facility; (3-27-13)
- ii. Made a material misrepresentation regarding the nature or scope of the use on a prior Permit application; (3-27-13)
- iii. Violated the terms of prior Permits issued to the individual, organization or entity; or (3-27-13)
- iv. Violated any applicable law in the course of previous Public Use of state of Idaho facilities. (3-18-14)
- i. The requested use would cause a clear and present danger to the orderly processes of state of Idaho government or to the use of the Idaho State Capitol Exterior due to advocacy of: ~~(3-27-13)~~(1-7-21)T
- i. The violent overthrow of the government of the United States, the state of Idaho, or any political subdivision thereof; (3-27-13)
- ii. The willful damage or destruction, or seizure and subversion of public property; (3-27-13)
- iii. The forcible disruption or impairment of or interference with the regularly scheduled functions of the state of Idaho; ~~(3-27-13)~~(1-7-21)T
- iv. The physical harm, coercion, intimidation or other invasions of the lawful rights of public officials or the public; or (3-27-13)
- v. Other disorders of a violent nature. (3-27-13)

402. REVOCATION OF A PERMIT.

A Permit may be revoked by the Director for the violation of any term or condition of the Permit or the violation of law including, but not limited to, the violation of any provision of these rules. (3-27-13)

403. APPEALS.

01. Time for Appeal. The individual or the organization or entity submitting an application may request that the Department initiate a contested case within the period set forth below. The Department will not initiate a contested case after the following periods: (3-27-13)

- a. Seven (7) State Business Days following the written denial of an application for a Permit; (3-27-13)
- b. Seven (7) State Business Days following the revocation of a Permit; ~~and~~ ~~(3-27-13)~~(1-7-21)T
- c. Seven (7) State Business Days following the date the Department was required to approve or deny the application for a Permit pursuant to ~~Subsection 401.01~~ of these rules. ~~(3-27-13)~~(1-7-21)T

02. Requesting an Appeal. The individual or the organization or entity submitting an application shall request an appeal in writing, with a physical copy delivered to the Director at the address set forth ~~in Section 005 of these rules~~ on the Department's website. Electronic delivery shall not be deemed a physical copy. The written request

shall contain the following:

~~(3-27-13)~~(1-7-21)T

- a. The name, address, and contact information of the appellant; (3-27-13)
- b. A concise statement of the reason the appeal should be granted; (3-27-13)
- c. Whether the appellant requests informal disposition to expedite the contested case; and (3-27-13)
- d. A description of the Permit sought. (3-27-13)

03. Informal Disposition. If an appellant requests informal disposition, the Director will accept written evidence submitted within five (5) State Business Days of the appeal request, or as otherwise agreed by the Director and the appellant. The Director will issue a final written order affirming, reversing or modifying the denial or revocation of the Permit. (3-27-13)

04. Contested Cases. If an appellant does not request informal disposition, the Director will schedule a hearing and proceed as set forth in ~~Title 67, C~~chapter 52, ~~title 67,~~ Idaho Code. Contested cases will be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General."

~~(3-27-13)~~(1-7-21)T

05. Judicial Review. Judicial review of orders issued in an appeal is provided as set forth in ~~Title 67,~~ ~~C~~chapter 52, ~~title 67,~~ Idaho Code. ~~(3-27-13)~~(1-7-21)T

404. -- 499. (RESERVED)

500. LIABILITY ~~AND INDEMNIFICATION.~~

01. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, ~~Title 6, C~~chapter 9, ~~title 6,~~ Idaho Code. ~~(3-27-13)~~(1-7-21)T

02. No Endorsement. The grant of a Permit and any action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the ~~Idaho State Facilities Capitol.~~ ~~(3-18-14)~~(1-7-21)T

501. -- 999. (RESERVED)