

TITLE 50  
MUNICIPAL CORPORATIONS

CHAPTER 2  
GENERAL PROVISIONS -- GOVERNMENT -- TERRITORY

50-201. PROOF OF CORPORATE EXISTENCE -- EFFECT OF THIS ACT. The corporate name of each city governed by this act shall be City of . . . . All courts within the county in which such city is situated shall take judicial notice of the corporate capacity and existence of such city, and of the fact that such city is identical with, and a continuation of such former corporation. In all other courts of the state the corporate capacity and existence of such city may be proved by copies of the certificate of incorporation, required to be filed with the secretary of state, duly authenticated, declaring the same to be a city.

All by-laws, ordinances and resolutions lawfully passed and in force in any city under its former organization, shall remain in full force and effect until altered or repealed by the mayor and council under the provisions of this act.

The territorial limits of each city shall remain the same as under its former organization; but such territorial limits may be extended or changed as may be provided by law; and the rights and property of every description which are vested in any city under its former organization shall remain in full force and effect.

Each city shall be the successor of its former organization and shall have perpetual succession. No right or liability of any city, either in favor of or against it, existing at the time, and no suit or prosecution of any kind shall be affected by such change. It shall have and exercise all powers, functions, rights and privileges, now or hereafter granted it, and shall be subject to all the duties, obligations, liabilities and limitations now or hereafter imposed upon such city by the constitution and laws of the state of Idaho.

Processes and notices affecting corporations shall be served upon the mayor and in his absence upon the clerk or in the absence of such officers, then by leaving a certified copy at the office of the clerk.

[50-201, added 1967, ch. 429, sec. 5, p. 1249; am. 1982, ch. 121, sec. 1, p. 347.]

50-202. EXISTING RIGHTS AND LIABILITIES NOT AFFECTED -- OPERATION OF PRIOR INCORPORATED CITIES AND VILLAGES. This act shall not impair or affect any act done, offense committed or right accruing, accrued, or acquired or liability, penalty, forfeiture or punishment incurred prior to the time this act takes effect, but the same may be enjoyed, asserted [asserted], enforced, prosecuted or inflicted, as fully and to the same extent as if this act has not been passed.

All cities of the first class and all cities of the second class, heretofore incorporated under the general laws of this state, and heretofore operating with a mayor and council, shall continue to operate with a mayor and a council under the provisions of this act. All villages, heretofore incorporated under the general laws of this state, and heretofore operating with a board of trustees, shall hereafter operate with a mayor and a council under the provisions of this act. All cities and villages, heretofore incorporated under the general laws of this state, and heretofore operating under

chapters 36, 43 or 49, [title 50](#), Idaho Code, shall hereafter operate under sections [50-805](#) [50-801] through 50-904 [50-812], and enjoy all powers and privileges given under the provisions of this act.

[50-202, added 1967, ch. 429, sec. 473, p. 1249.]

50-203. OFFICIALS -- COMPENSATION. The officials of each city shall consist of a mayor and either four (4) or six (6) councilmen whose compensation shall be fixed by ordinance published at least seventy-five (75) days before any general city election, which ordinance shall be effective for all said officials commencing on January 1 following said election and continuing until changed pursuant to this section.

[50-203, added 1967, ch. 429, sec. 33, p. 1249; am. 1976, ch. 45, sec. 8, p. 127; am. 2006, ch. 105, sec. 1, p. 288.]

50-204. APPOINTMENT OF OFFICERS -- OATH -- BOND. The mayor, except as otherwise provided in sections [50-801](#) through [50-812](#), with the consent of the council shall appoint a city clerk, a city treasurer, a city attorney and such other officers as may be deemed necessary for the efficient operation of the city. The city clerk, city treasurer, and such other officers as are designated by the council shall, before entering upon the duties thereof, execute a bond to the city in such penal sum as the city council may by ordinance determine, conditioned on the faithful performance of his duties. All official bonds shall be approved by the city council and when so approved shall be filed with the city clerk, except the bond of the city clerk, which shall be filed with the mayor.

[50-204, added 1967, ch. 429, sec. 68, p. 1249.]

50-205. REFUSAL TO CONFIRM APPOINTMENTS -- VACANCIES. If the city council shall refuse to confirm any nomination, the mayor shall then within ten (10) days thereafter, nominate another person to fill the office and he may continue to nominate until his nominee is confirmed. If the mayor fails to make another nomination for the same office within ten (10) days after the rejection of a nominee, the city council shall appoint a suitable person to fill the office during the term. The affirmative vote of one half (1/2) plus one (1) of the members of the full council shall be required to confirm any nomination made by the mayor. Whenever a vacancy shall occur in an appointive office, the vacancy for the unexpired term shall be filled by appointment in the same manner as the original appointment.

[50-205, added 1967, ch. 429, sec. 69, p. 1249.]

50-206. REMOVAL OF APPOINTIVE OFFICERS. Any appointive officer, unless appointed under sections [50-801](#) through [50-812](#), may be removed by the mayor for any cause by him deemed sufficient; but such removal shall be by and with the affirmative vote of one half (1/2) plus one (1) of the members of the full council; provided, that the city council, by the unanimous vote of all its members, may upon their own initiative remove any appointive officer.

[50-206, added 1967, ch. 429, sec. 70, p. 1249.]

50-207. DUTIES OF THE CLERK -- JOURNAL -- ADMINISTERING OATHS. The city clerk shall keep a correct journal of the proceedings of the council and shall have the custody of all laws and ordinances of the city. He may administer oaths to any person concerning any matter submitted to him or the city council. He shall also perform such other duties as may be required by ordinance.

[50-207, added 1967, ch. 429, sec. 71, p. 1249; am. 1976, ch. 49, sec. 1, p. 148; am. 1979, ch. 30, sec. 1, p. 46.]

50-208. DUTIES OF TREASURER -- RECORD OF OUTSTANDING BONDS. (1) The treasurer of each city shall be the custodian of all moneys belonging to the city. He shall account for each fund or appropriation made in its annual budget appropriation or otherwise directed by the city council. Such accounting shall track the debits and credits relating thereto. The treasurer shall on a monthly basis, and no more than sixty (60) days after the conclusion of each month at a regular meeting of the city council, render an accounting to the city council showing the financial condition of the treasury at the date of such accounting. The report shall state the balances of accounts maintained in the city's treasury. The treasurer shall also make available credit and debit details of all such accounts when required by the mayor or by action of the governing board. Making the quarterly treasurer's report available for public review on the city's website within thirty (30) days of the conclusion of each quarter shall satisfy publication requirements established by section [50-1011](#), Idaho Code.

(2) The treasurer shall also keep a record of all outstanding bonds against the city showing the number, amount of each, and to whom said bonds were issued; and when any bonds are purchased, paid or canceled. In his annual report, the treasurer shall describe particularly the bonds issued and sold during the year and the fiscal terms of the sale including the expenses related thereto.

[50-208, added 1967, ch. 429, sec. 72, p. 1249; am. 1976, ch. 49, sec. 2, p. 148; am. 2017, ch. 129, sec. 1, p. 303.]

50-208A. DUTIES OF CITY ATTORNEY. (1) The city attorney shall be the legal advisor of the municipal corporation, may represent the city in all suits or proceedings in which the city is interested, and shall perform such other duties as may be prescribed by ordinances and resolutions duly passed. Nothing herein, however, shall preclude any city from employing alternative additional counsel when deemed advisable.

(2) The city attorney, his deputies, or contract counsel shall prosecute those violations of county or city ordinances, state traffic infractions, and state misdemeanors committed within the municipal limits. In so doing, the city attorney, his deputies, or contract counsel shall exercise the same powers as the county prosecutor including, but not limited to, granting immunity to witnesses.

[50-208A, added 1989, ch. 292, sec. 2, p. 720.]

50-209. POWERS OF POLICEMEN. The policemen of every city, should any be appointed, shall have power to arrest all offenders against the law of the state, or of the city, by day or by night, in the same manner as the sheriff or constable. Whenever such policemen shall be in fresh pursuit of any of-

fender against any law of the state, including traffic infractions, or of the city and the offense has been committed within the corporate limits of such city, such policemen, while in such fresh pursuit may go beyond the corporate or geographical limits of such city subject to the provisions of [chapter 7, title 19](#), Idaho Code, for the purpose of making such arrest or citation.

[50-209, added 1967, ch. 429, sec. 73, p. 1249; am. 1980, ch. 152, sec. 2, p. 322; am. 1987, ch. 85, sec. 1, p. 160.]

50-210. BOARDS -- COMMISSIONS. The mayor and council shall have authority to appoint such boards, commissions and committees as may be deemed necessary or expedient to assist the mayor and council in better carrying out the responsibilities of their offices. The responsibilities, duties and authority granted permanent boards or commissions, shall be enumerated by ordinance. All appointments to permanent boards, commissions or committees shall be made by the mayor with the advice and approval of the council, and members of permanent boards, commissions or committees may in like manner be removed. Members of all such boards, commissions or committees shall serve without compensation, but actual and necessary expenses may be allowed by ordinance in the case of permanent boards, commissions or committees, or with prior approval of the mayor and city council for all other boards, commissions or committees. Unless otherwise specifically provided, each such board, commission or committee shall provide its own manner of organizing, but shall maintain such records and make such reports as the mayor and city council may require or request.

[50-210, added 1967, ch. 429, sec. 74, p. 1249; am. 1987, ch. 24, sec. 1, p. 33.]

50-213. OFFICIAL NEWSPAPER. The city council of each city shall, by ordinance, designate a newspaper within the provisions of [title 60](#), Idaho Code, to be the official newspaper of that city. Said newspaper shall be one published within said city, or if none there be, then a newspaper published within the county in which said city is situated, or the nearest Idaho newspaper of general circulation within the city.

[50-213, added 1967, ch. 429, sec. 36, p. 1249; am. 1977, ch. 194, sec. 1, p. 528.]

50-214. CENSUS AUTHORIZED. Any city council may provide, by resolution, for taking census or enumeration of the inhabitants thereof, and in such resolution shall provide for engaging the services of the bureau of census, U.S. department of commerce, to take said census or enumeration. Whenever it shall have been duly ascertained by any census or enumeration taken as hereinbefore provided, such fact shall thereupon by the clerk of said city, be certified to the secretary of state and to the county clerk wherein said city is situated. Provided further, that the population of any city determined by a special census shall thereafter be used in apportionment of state revenues in which the city may share.

[50-214, added 1967, ch. 429, sec. 7, p. 1249; am. 1973, ch. 21, sec. 1, p. 42.]

50-215. PROSECUTIONS AGAINST CORPORATIONS UNDER CITY ORDINANCE. In all prosecutions of any corporation for a violation of any city ordinance or any forfeiture or penalty provided by ordinance of such city, it shall be sufficient to make the corporation in its corporate name a defendant and service may be procured by serving of summons upon the president, secretary, or other managing agent of such corporation; and after the return of such service, the court shall be deemed to have acquired jurisdiction of the defendant and may proceed to try said cause; and any judgment imposed by said court shall have the force and effect of a judgment in a civil suit action and execution may issue thereon, and the corporate property, rights and franchises of said defendant may be sold thereunder in satisfaction of the same. The summons herein authorized to be served upon a defendant corporation shall contain a statement that the corporation shall appear forthwith and defend said action, and in case of failure to so appear and defend, a plea of not guilty will be entered by the court and the trial will proceed as if said defendant shall have appeared. A copy of the complaint shall be attached to and served with said summons.

[50-215, added 1967, ch. 429, sec. 8, p. 1249.]

50-216. COMPELLING ATTENDANCE OF WITNESSES BEFORE COUNCIL. The council of any city shall have power to compel the attendance of witnesses before the mayor and council or any committee thereof in any investigation ordered by the council: provided, that all process shall be issued by the mayor, and the attendance of such witnesses may be compelled by attachment, fine, or imprisonment; provided, further, that the mayor or president of the council shall preside at such hearing and administer all oaths and any person testifying falsely at such investigation shall be deemed guilty of perjury.

[50-216, added 1967, ch. 429, sec. 9, p. 1249.]

50-217. PAYMENT OF JUDGMENTS. The city council shall have power to order paid any final judgment against such city, but none of its lands or property of any kind or nature, taxes, revenues, franchises, rates or interest shall be attached, levied upon or sold in or under any process whatsoever.

[50-217, added 1967, ch. 429, sec. 10, p. 1249.]

50-218. PROHIBITION AGAINST RECOGNITION OF INVALID OR STALE CLAIMS. The city council of any city shall never allow, make valid, or in any manner recognize any demand against the city, which was not at the time of its creation a valid claim against the same; nor shall it authorize to be paid any demand which, without such action, would be invalid or which shall then be barred by any statute of limitation or for which the city was never liable, and any such action shall be void.

[50-218, added 1967, ch. 429, sec. 11, p. 1249.]

50-219. DAMAGE CLAIMS. All claims for damages against a city must be filed as prescribed by [chapter 9, title 6](#), Idaho Code.

[50-219, added 1967, ch. 429, sec. 12, p. 1249; am. 1983, ch. 93, sec. 1, p. 206.]

50-220. ACQUISITION AND CONTROL OF LANDS OUTSIDE CORPORATE LIMITS -- PURPOSE. Cities are hereby authorized to acquire by purchase, lease or otherwise, lands outside of their respective corporate limits and to own, control, regulate and administer lands so acquired, either directly by said corporations or through any governmental agency or other agency.

[50-220, added 1967, ch. 429, sec. 13, p. 1249.]

50-221. CITIES SITUATED ON NAVIGABLE LAKES AND STREAMS -- EXTENSION OF BOUNDARIES INTO WATERS. Cities situated on navigable lakes and streams, when the corporate boundaries or limits of such cities extend to the shorelines of such lakes or streams, shall have power by ordinance to fix, determine or extend its corporate boundaries or limits over the waters of such lakes or streams for a distance of one fourth (1/4) of a mile from the low-water mark of such navigable lakes, and for a distance of seventy-five (75) feet from the low-water mark of such navigable streams.

[50-221, added 1967, ch. 429, sec. 14, p. 1249.]

50-222. ANNEXATION BY CITIES. (1) Legislative intent. The legislature hereby declares and determines that it is the policy of the state of Idaho that cities of the state should be able to annex lands which are reasonably necessary to assure the orderly development of Idaho's cities in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the orderly development of private lands which benefit from the cost-effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.

(2) General authority. Cities have the authority to annex land into a city upon compliance with the procedures required in this section. In any annexation proceeding, all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation. Provided further, that said city council shall not have the power to declare such land, lots or blocks a part of said city if they will be connected to such city only by a shoestring or strip of land which comprises a railroad or highway right-of-way.

(3) Annexation classifications. Annexations shall be classified and processed according to the standards for each respective category set forth herein. The three (3) categories of annexation are:

(a) Category A: Annexations wherein:

(i) All private landowners have consented to annexation. Annexation where all landowners have consented may extend beyond the city area of impact provided that the land is contiguous to the city and that the comprehensive plan includes the area of annexation;

(ii) Any residential enclaved lands of less than one hundred (100) privately owned parcels, irrespective of surface area, which are surrounded on all sides by land within a city or which are bounded on all sides by lands within a city and by the boundary of the city's area of impact; or

(iii) The lands are those for which owner approval must be given pursuant to subsection (5) (b) (v) of this section.

(b) Category B: Annexations wherein:

(i) The subject lands contain less than one hundred (100) separate private ownerships and platted lots of record and where not all such landowners have consented to annexation; or

(ii) The subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have consented to annexation prior to the commencement of the annexation process; or

(iii) The lands are the subject of a development moratorium or a water or sewer connection restriction imposed by state or local health or environmental agencies; provided such lands shall not be counted for purposes of determining the number of separate private ownerships and platted lots of record aggregated to determine the appropriate category.

(c) Category C: Annexations wherein the subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have not consented to annexation prior to commencement of the annexation process.

(4) (a) Evidence of consent to annexation. For purposes of this section, and unless excepted in paragraph (b) of this subsection, consent to annex shall be valid only when evidenced by written instrument consenting to annexation executed by the owner or the owner's authorized agent. Written consent to annex lands must be recorded in the county recorder's office to be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the consent. Lands need not be contiguous or adjacent to the city limits at the time the landowner consents to annexation for the property to be subject to a valid consent to annex; provided however, no annexation of lands shall occur, irrespective of consent, until such land becomes contiguous or adjacent to such city.

(b) Exceptions to the requirement of written consent to annexation. The following exceptions apply to the requirement of written consent to annexation provided for in paragraph (a) of this subsection:

(i) Enclaved lands: In category A annexations, no consent is necessary for enclaved lands meeting the requirements of subsection (3) (a) (ii) of this section;

(ii) Implied consent: In category B and C annexations, valid consent to annex is implied for the area of all lands connected to a water or wastewater collection system operated by the city if the connection was requested in writing by the owner, or the owner's authorized agent, or completed before July 1, 2008.

(5) Annexation procedures. Annexation of lands into a city shall follow the procedures applicable to the category of lands as established by this section. The implementation of any annexation proposal wherein the city council determines that annexation is appropriate shall be concluded with the passage of an ordinance of annexation.

(a) Procedures for category A annexations: Lands lying contiguous or adjacent to any city in the state of Idaho may be annexed by the city if the proposed annexation meets the requirements of category A. Upon determining that a proposed annexation meets such requirements, a city may initiate the planning and zoning procedures set forth in [chapter 65,](#)

[title 67](#), Idaho Code, to establish the comprehensive planning policies, where necessary, and zoning classification of the lands to be annexed.

(b) Procedures for category B annexations: A city may annex lands that would qualify under the requirements of category B annexation if the following requirements are met:

(i) The lands are contiguous or adjacent to the city and lie within the city's area of city impact;

(ii) The land is laid off into lots or blocks containing not more than five (5) acres of land each, whether the same shall have been or shall be laid off, subdivided or platted in accordance with any statute of this state or otherwise, or whenever the owner or proprietor or any person by or with his authority has sold or begun to sell off such contiguous or adjacent lands by metes and bounds in tracts not exceeding five (5) acres, or whenever the land is surrounded by the city. Splits of ownership which occurred prior to January 1, 1975, and which were the result of placement of public utilities, public roads or highways, or railroad lines through the property shall not be considered as evidence of an intent to develop such land and shall not be sufficient evidence that the land has been laid off or subdivided in lots or blocks. A single sale after January 1, 1975, of five (5) acres or less to a family member of the owner for the purpose of constructing a residence shall not constitute a sale within the meaning of this section. For purposes of this section, "family member" means a natural person or the spouse of a natural person who is related to the owner by blood, adoption or marriage within the first degree of consanguinity;

(iii) Preparation and publication of a written annexation plan, appropriate to the scale of the annexation contemplated, which includes, at a minimum, the following elements:

(A) The manner of providing tax-supported municipal services to the lands proposed to be annexed;

(B) The changes in taxation and other costs, using examples, which would result if the subject lands were to be annexed;

(C) The means of providing fee-supported municipal services, if any, to the lands proposed to be annexed;

(D) A brief analysis of the potential effects of annexation upon other units of local government which currently provide tax-supported or fee-supported services to the lands proposed to be annexed; and

(E) The proposed future land use plan and zoning designation or designations, subject to public hearing, for the lands proposed to be annexed;

(iv) Compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in section [67-6511](#), Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied thereto; provided however, the initial notice of public hearing concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every property owner with lands included in such annexation proposal not less than twenty-eight (28) days prior to the initial public hearing. All public hearing notices shall establish a time and procedure by which comments concerning the



proposed annexation may be received in writing and heard and, additionally, public hearing notices delivered by mail shall include a one (1) page summary of the contents of the city's proposed annexation plan and shall provide information regarding where the annexation plan may be obtained without charge by any property owner whose property would be subject to the annexation proposal.

(v) In addition to the standards set forth elsewhere in this section, annexation of the following lands must meet the following requirements:

(A) Property owned by a county or any entity within the county that is used as a fairgrounds area under the provisions of [chapter 8, title 31](#), Idaho Code, or [chapter 2, title 22](#), Idaho Code, must have the consent of a majority of the board of county commissioners of the county in which the property lies;

(B) Property owned by a nongovernmental entity that is used to provide outdoor recreational activities to the public, and that has been designated as a planned unit development of fifty (50) acres or more and does not require or utilize any city services, must have the express written permission of the nongovernmental entity owner;

(C) Land, if five (5) acres or greater, actively devoted to agriculture, as defined in section [63-604\(1\)](#), Idaho Code, regardless of whether it is surrounded or bounded on all sides by lands within a city, must have the express written permission of the owner; and

(D) Land, if five (5) acres or greater, actively devoted to forest land, as defined in section [63-1701](#), Idaho Code, regardless of whether it is surrounded or bounded on all sides by lands within a city, must have the express written permission of the owner.

(vi) After considering the written and oral comments of property owners whose land would be annexed and other affected persons, the city council may proceed with the enactment of an ordinance of annexation and zoning. In the course of the consideration of any such ordinance, the city must make express findings, to be set forth in the minutes of the city council meeting at which the annexation is approved, as follows:

(A) The land to be annexed meets the applicable requirements of this section and does not fall within the exceptions or conditional exceptions contained in this section;

(B) The annexation would be consistent with the public purposes addressed in the annexation plan prepared by the city;

(C) The annexation is reasonably necessary for the orderly development of the city;

(vii) Notwithstanding any other provision of this section, railroad right-of-way property may be annexed pursuant to this section only when property within the city adjoins or will adjoin both sides of the right-of-way.

(c) Procedures for category C annexations: A city may annex lands that would qualify under the requirements of category C annexation if the following requirements are met:

- (i) Compliance with the procedures governing category B annexations; and
- (ii) Evidence of consent to annexation based upon the following procedures:

(A) Following completion of all procedures required for consideration of a category B annexation, but prior to enactment of an annexation ordinance and upon an affirmative action by the city council, the city shall mail notice to all private landowners owning lands within the area to be annexed, exclusive of the owners of lands that are subject to a consent to annex which complies with subsection (4) (a) of this section defining consent. Such notice shall invite property owners to give written consent to the annexation, include a description of how that consent can be made and where it can be filed, and inform the landowners where the entire record of the subject annexation may be examined. Such mailed notice shall also include a legal description of the lands proposed for annexation and a simple map depicting the location of the subject lands.

(B) Each landowner desiring to consent to the proposed annexation must submit the consent in writing to the city clerk by a date specified in the notice, which date shall not be later than forty-five (45) days after the date of the mailing of such notice.

(C) After the date specified in the notice for receipt of written consent, the city clerk shall compile and present to the city council a report setting forth: (i) the total physical area sought to be annexed, and (ii) the total physical area of the lands, as expressed in acres or square feet, whose owners have newly consented in writing to the annexation, plus the area of all lands subject to a prior consent to annex which complies with subsection (4) (a) of this section defining consent. The clerk shall immediately report the results to the city council.

(D) Upon receiving such report, the city council shall review the results and may thereafter confirm whether consent was received from the owners of a majority of the land. The results of the report shall be reflected in the minutes of the city council. If the report as accepted by the city council confirms that owners of a majority of the land area have consented to annexation, the city council may enact an ordinance of annexation, which thereafter shall be published and become effective according to the terms of the ordinance. If the report confirms that owners of a majority of the land area have not consented to the annexation, the category C annexation shall not be authorized.

(6) The decision of a city council to annex and zone lands as a category B or category C annexation shall be subject to judicial review in accordance with the procedures provided in [chapter 52, title 67](#), Idaho Code, and pursuant to the standards set forth in section [67-5279](#), Idaho Code. Any such appeal shall be filed by an affected person in the appropriate district court no later than twenty-eight (28) days after the date of publication of the annexation ordinance. All cases in which there may arise a question of the

validity of any annexation under this section shall be advanced as a matter of immediate public interest and concern and shall be heard by the district court at the earliest practicable time.

(7) Annexation of noncontiguous municipal airfield. A city may annex land that is not contiguous to the city and is occupied by a municipally owned or operated airport or landing field. However, a city may not annex any other land adjacent to such noncontiguous facilities which is not otherwise annexable pursuant to this section.

[50-222, added 2002, ch. 333, sec. 2, p. 939; am. 2008, ch. 118, sec. 1, p. 327; am. 2009, ch. 53, sec. 1, p. 145; am. 2019, ch. 22, sec. 1, p. 22; am. 2020, ch. 240, sec. 1, p. 702.]

50-223. ANNEXATION ORDINANCE TO BE FILED. It shall be the duty of the clerk of any city, within ten (10) days following the effective date of any annexation ordinance: to file a certified copy of such ordinance with the county auditor, the county treasurer and the county assessor of the county in which the city is located, and with the Idaho state tax commission; to comply with the provisions of section [63-215](#), Idaho Code; and to order the annexed area surveyed if the council shall so direct; the cost of said survey to be prorated according to the amount of land surveyed and assessed to the then owners of said lands as provided in section [50-1008](#), Idaho Code, and thereupon and thereafter the corporate limits of such city shall extend to and include such land, and thereafter all property and persons within the limits of such annexed tract of land shall be subject to the provisions of all by-laws and ordinances of the said city.

[50-223, added 1967, ch. 429, sec. 16, p. 1249; am. 1971, ch. 7, sec. 1, p. 17; am. 1996, ch. 322, sec. 47, p. 1077.]

50-224. EFFECT OF ANNEXATION -- CEMETERY DISTRICTS EXEMPTED. Upon compliance with the provisions of section [63-215](#), Idaho Code, all the property situated within the said annexed territory shall be subject to taxation as other property and persons within the corporate limits of such city, as though said annexed portion had been a part of the said city from the date of its incorporation.

When the annexed area or any part thereof is situated in any district, organized under the laws of this state, and said district is supported in whole or in part by taxes levied upon the annexed territory or any part thereof, and said district provides the same or similar services as that provided by the annexing city, the annexed area shall, upon the filing of the certified copy of said ordinance, be relieved of all liability for levies, taxes and assessments made by said district after the calendar year in which said annexation occurred. The purpose of this section is to prevent duplicate taxation of said annexed area for the same or similar services by such district and the annexing city.

The filing of the certified copy of said ordinance shall constitute a withdrawal of said annexed territory from the district, offering the same or similar services to the annexed territory as the annexing city, which withdrawal shall be effective as of December 31 of the calendar year of annexation, such withdrawal shall have the same effect as if the withdrawal had been made by the statutory procedure for withdrawing from such district.

However, this section shall not apply to public cemetery districts created prior to the date of the annexation ordinance, and that the annexing

city may not levy taxes for cemetery maintenance within the bounds of an existing cemetery district. Cities which have heretofore levied taxes for cemetery maintenance on property within an existing cemetery district shall discontinue that practice from and after the date this act becomes effective.

[50-224, added 1967, ch. 429, sec. 17, p. 1249; am. 1967, ch. 432, sec. 1, p. 1418; am. 1970, ch. 47, sec. 1, p. 97; am. 1996, ch. 322, sec. 48, p. 1077.]

50-225. EXCLUSION OF TERRITORY. The boundaries of any city in this state may be altered and a portion of the territory thereof excluded therefrom, and the councils of such cities are hereby granted power to enact ordinances for that purpose. Such alteration shall not relieve any territory excluded from the limits of a city from its liability on account of any outstanding bonded or other indebtedness of such city or of any bonded or other indebtedness of any improvement district of which the excluded territory is an existing part at the time of the passage of such ordinance. For the purpose of collecting any of the indebtedness specified in this section, the territory so excluded shall be and remain under the jurisdiction of such city. Immediately after the passage, approval and publication of said ordinance, a copy thereof duly certified by the clerk of said city shall be filed in compliance with the provisions of section [63-215](#), Idaho Code. Thereafter, the boundaries of said city shall be as set forth in said ordinance.

[50-225, added 1967, ch. 429, sec. 18, p. 1249; am. 1996, ch. 322, sec. 49, p. 1078.]

50-226. SEPARATION OF AGRICULTURAL LANDS -- PETITION. The owner or adjoining owners of any platted or unplatted tract or tracts of land containing not less than five (5) acres, included within the corporate limits of any city in this state and used exclusively for agricultural purposes, provided, however, if there is upon or over such tract or tracts of land a railroad or canal right of way, such tract or tracts shall, if no other reason exists, be deemed to be used exclusively for agricultural purposes, within the meaning of this section, may petition the district court of the county in which such tract or tracts of land are situated for a judgment and decree of the court detaching such tract or tracts of land from such city.

[50-226, added 1967, ch. 429, sec. 97, p. 1249.]

50-227. SEPARATION OF AGRICULTURAL LANDS -- NOTICE OF PETITION AND HEARING THEREON. Upon the filing of such petition with the clerk of such court and paying a fee of ten dollars (\$10.00), which fee shall be in full for all clerk's fees except the regular fees provided by law on the appeals, the said court shall fix a time for the hearing thereupon, which shall not be less than thirty (30) days from the filing of such petition, and the petitioners shall serve or cause to be served a notice of such hearing upon the mayor or clerk of such city at least twenty (20) days before the time fixed for such hearing.

The said petitioner or petitioners shall also cause to be published once a week in two (2) consecutive weekly issues in some newspaper published in said city where the land sought to be detached is situated, or, in case no

newspaper is published in said city, cause notices to be posted in at least three (3) conspicuous places in said city, said notice stating the time and place of such hearing and that any person desiring to protest or object to the granting of the prayer of said petition may do so by filing with the clerk of said court at least two (2) days before the day set for the hearing of said petition his objections or protests in writing. Such notice shall state generally the purpose of the petition and the location and description of the land sought to be detached from the corporate limits of said city.

[50-227, added 1967, ch. 429, sec. 98, p. 1249.]

50-228. SEPARATION OF AGRICULTURAL LANDS -- REPLY TO PROTESTS -- VERIFICATION. The petitioner or petitioners may, after any such petitions or objections are filed with the clerk at any time before the hour of the hearing on said petition, in their discretion, file with the judge or clerk replies in writing to said protests or objections. Neither said petition nor objections, protests nor reply need be verified.

[50-228, added 1967, ch. 429, sec. 99, p. 1249.]

50-229. SEPARATION OF AGRICULTURAL LANDS -- HEARING. The hearing herein provided on said petition shall be held within the corporate limits of the city in which said lands sought to be detached are situated. The regular district court reporter shall reduce to writing the testimony and evidence introduced, the same as in trial of civil actions. The judge of such court, either before or after said hearing, may view the lands and premises sought to be detached, as well as other lands or property within the corporate limits of such city, which might in any way be affected by the granting of such petition, and lands on the outside of such city in the same vicinity or locality in which the lands sought to be detached are situated, and may consider such conditions as he finds in connection with the evidence introduced on the hearing, in making and arriving at his final decision and determination of the matter.

No tract or tracts of land shall be detached from any city which by such detachment, would materially mar the symmetry of such city.

[50-229, added 1967, ch. 429, sec. 100, p. 1249.]

50-230. SEPARATION OF AGRICULTURAL LANDS -- JUDGMENT OF SEPARATION. If, upon the hearing, the court shall find that such tract or tracts of land are tracts containing at least five (5) acres and are included within the corporate limits of such city and the lands included within such tract or tracts are used exclusively for agricultural purposes, provided, however, if there is upon or over such tract or tracts of land a railroad or canal right of way, such tract or tracts shall, if no other reason exists, be deemed to be used exclusively for agricultural purposes, within the meaning of this section; that such lands do not receive sufficient special benefits to justify the retention of said lands within the corporate limits of such city, and that by the detachment of said lands the symmetry of the city would not be materially marred, then the judge of said court shall grant the prayer of said petition and shall enter judgment and decree accordingly: Provided, however, that if said petition prays for detaching several tracts of land the court may enter judgment granting the prayer of the petition as to such tract

or tracts as come within his findings as aforesaid and deny such petition as to such tract or tracts which do not come within his findings as aforesaid.

And said tract or tracts of land sought to be detached and for which the said judgment is entered detaching the same shall, upon the entering of said judgment, become detached from such city and the corporate boundary line or limits of said city shall be deemed changed accordingly, and said tract or tracts so detached shall be free from the government of such corporation from said date.

It shall not be necessary for the judge of the court, prior to entering his judgment, or at any time, to make written findings of fact or conclusions of law. Within twenty (20) days after the filing of said decree the petitioner shall file or cause to be filed with the county recorder and with the city clerk a certified copy thereof.

[50-230, added 1967, ch. 429, sec. 101, p. 1249.]

50-231. SEPARATION OF AGRICULTURAL LANDS -- LIABILITY FOR BONDED INDEBTEDNESS. Such separation shall not relieve any such tract of land from its liability on account of any outstanding bonded indebtedness of such city existing at the time of its separation therefrom.

[50-231, added 1967, ch. 429, sec. 102, p. 1429.]

50-232. SEPARATION OF AGRICULTURAL LANDS -- STREETS NOT AFFECTED BY SEPARATION. The detaching of any lands from the corporate limits of any city under the provisions of this chapter shall not affect or change the status of any public streets or highways as the same are laid out, constructed or dedicated at the time of such detachment, but any public streets or highways included within the territory detached shall cease to be a part of such city.

[50-232, added 1967, ch. 429, sec. 103, p. 1429.]

50-233. SEPARATION OF AGRICULTURAL LANDS -- APPEAL. Any city or any person aggrieved by the judgment of the court entered as herein provided may appeal from such decision and judgment to the Supreme Court. The procedure of said appeal shall be the same as the procedure on appeal from final judgment in civil actions.

[50-233, added 1967, ch. 429, sec. 104, p. 1249.]

50-234. LEASE OF MINING PROPERTY BY CITY. Except as otherwise provided by law, whenever it has been determined or appears probable that any property of a city has become valuable by reason of veins, lodes, or other deposits of mineral underlying said property, the corporate authority of any city, upon the affirmative vote of one half (1/2) plus one (1) of the members of the full council, shall have the power, by ordinance, to grant a lease in and to such minerals, with the right to mine for and extract the same, provided, that the surface of said property shall be in no wise interfered with or disturbed. Such lease shall provide for such royalties and shall contain such other terms and provisions as said council may deem proper, but in no case shall any such lease be made for a greater period than twenty-five (25) years.

[50-234, added 1967, ch. 429, sec. 19, p. 1249.]

50-235. TAX LEVY FOR GENERAL AND SPECIAL PURPOSES. The city council of each city is hereby empowered to levy taxes for general revenue purposes not to exceed nine tenths percent (.9%) of the market value for assessment purposes on all taxable property within the limits of the city in any one (1) year, and such levies for special purposes as are or may hereafter be provided, on all property within the limits of the city, taxable according to the laws of the state of Idaho, the valuation of such properties to be ascertained from the assessment rolls of the proper county.

[50-235, added 1967, ch. 429, sec. 37, p. 1249; am. 1974, ch. 186, sec. 2, p. 1491; am. 1995, ch. 82, sec. 21, p. 233.]

50-236. CAPITAL IMPROVEMENT FUND LEVY -- LIMITATIONS. Cities are hereby empowered to establish a "Capital Improvements Fund", by ordinance, and levy a special tax not to exceed in the aggregate four-hundredths per cent (.04%) of market value for assessment purposes in any one (1) year. Said fund shall never exceed in the aggregate four-tenths per cent (.4%) of the market value for assessment purposes of the city. Such funds shall not be subject to the provisions of section [50-1014](#), Idaho Code. Said ordinance shall identify the specific purpose for which the capital improvements fund shall be used.

[50-236, added 1967, ch. 429, sec. 43, p. 1249; am. 1980, ch. 350, sec. 21, p. 906.]

50-237. BORROW MONEY. All cities may borrow money and pledge the credit, revenue and public property of the corporation for the payment thereof, in the manner provided by law, and to evidence the same by issuance of bonds, notes or warrants.

[50-237, added 1967, ch. 429, sec. 38, p. 1249.]