

The public is invited to attend. However, the agenda for this meeting does not include an opportunity for public interaction. Limited seating will be available on a first-come, first-serve basis. This meeting will be livestreamed at <https://www.idahofallsidaho.gov/429/Live-Stream>. This meeting may be cancelled or recessed to a later time in accordance with law. If you need communication aids or other physical accommodation to participate in or access this meeting, please contact Emily Geisler, City Clerk, at (208) 612-8414 or Lisa Farris, ADA Coordinator, at (208) 612-8323 prior to the meeting.

CITY COUNCIL WORK SESSION

Times listed in parentheses are only estimates.

Call to Order and Roll Call

Community Development Services & Legal

Appeal of Interpretation or Administration (quasi-judicial hearing): Council Review of Idaho Falls Board of Adjustment decision regarding Alexander Kingsbury (45)

Actions: 1) Conduct Appeals Hearing pursuant to Idaho Falls Code 11-6-4(F); 2) Determine hearing outcome by taking one of the following actions: a) Sustain the Board of Adjustment Decision, b) Reverse the Decision, c) Remand the Decision in whole or in part, or d) take other action(s) as needed; and 3) Provide instruction to staff to aid in the preparation of the Reasoned Statement of Relevant Criteria and Standards

NOTE: The following Executive Session will be called for at 4:15 p.m. If the motion passes, the Council will break just prior to that time to convene in a separate conference room for the purpose stated below. When not in Executive Session, the Council will be convened in the Council Chambers before and after the Executive Session to address the agenda items listed below

Executive Session

Called pursuant to the provisions of Idaho Code Section 74-206(1)(f) to communicate with legal counsel for the public agency to discuss the legal ramifications of and legal options for pending litigation, or controversies not yet being litigated but imminently likely to be litigated. The mere presence of legal counsel at an executive session does not satisfy this requirement.

Community Development Services

Update: National Electrical Code (5)
Action: Council Direction to Staff (or take other appropriate action)

Parks & Recreation

Update: Association of Zoos & Aquariums (AZA) inspection process and upcoming accreditation hearing (30)
Action: Council Direction to Staff (or take other appropriate action)

Mayor's Office

Review: Economic Development Incentive with addition of Affordable Housing Options (30)
Action: Council Direction to Staff (or take other appropriate action)

Mayor, City Council

Mayor and Council Reports: Calendars; Announcements; Events; Reports; Updates; Concerns; Questions; Discussion; Proclamations; Notes or Minutes from Boards and Commissions (25)
Action: Council Direction to Staff (or take other appropriate action)

Dated this 5th day of September 2025



Emily Geisler, City Clerk

From: [Naysha Foster](#)
To: alexanderskingsbury@gmail.com
Cc: [Jacob Beck](#); [Michael Kirkham](#); [Emily Geisler](#); [Wade Sanner](#)
Subject: Appeal of BOA Decision
Date: Friday, August 15, 2025 2:29:00 PM
Attachments: [Reasoned Statement APP25-002 1796 Charlene St.pdf](#)
[image001.png](#)

Hello,

Please find the attached approved Reasoned Statement of Relevant Criteria and Standards as approved by the Board of Adjustment on Wednesday, August 13, 2025. Please consider this email the written notice of decision.

This matter has been scheduled to go before the Mayor and City Council on

September 8th at 3:00 PM in the Council Chambers.

I received your letter requesting to appeal the decision made by the Board of Adjustment, however your letter does not indicate how the Board of Adjustment erred in their decision to deny your appeal. Would you please resubmit a letter of appeal and include your objections to the Board's decision.

Below is the portion of the Zoning Code regarding the appeal process for the decision of the Board of Adjustment. You can see this in its entirety in Section 11-6-4 at this link <https://www.idahofallsidaho.gov/DocumentCenter/View/7031/Title-11---Comprehensive-Zoning>.

(4) Written notice of decisions of the Board of Adjustment and Planning and Zoning Commission, including conditions and Reasoned Statement of Relevant Criteria and Standards, shall be sent within five (5) days to the applicant and/or their representative, and all persons who have requested a copy of the decision.

(C) Appeal Procedures for Board of Adjustment and Planning and Zoning Commission Decisions.

(1) Decisions of the Board of Adjustment and Planning and Zoning Commission shall be final unless a written appeal is made to the City Council within fourteen (14) days of the date of the written notice of decision described above in paragraph Section 11-6-4B (4).

(a) The written notice of appeal shall be filed with the Zoning Administrator and shall set forth the objections to the decision made by the Board of Adjustment or Planning and Zoning Commission.

(b) Upon receipt of the appeal, the Zoning Administrator shall forward to the Council the record of the Board of Adjustment or Planning and Zoning Commission, including the Reasoned Statement of Relevant Criteria and Standards, adopted by the Board or the Commission.

(2) The concurring vote of a majority of the members of the City Council shall be required to reverse any requirement, decision, or condition of the Board of Adjustment or Planning and Zoning Commission.

(3) Any person aggrieved by a decision of the Council may seek recourse as provided in Idaho Code, as amended.

Please let me know if you have any questions.

Sincerely,



Community Development Services

Naysha Foster, CFM, Planner 1

680 Park Avenue

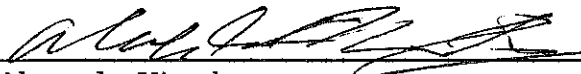
Idaho Falls, ID 83402

Ph: 208-612-8899

nfoster@idahofallsidaho.gov

-

We, the undersigned, appeal the decision made against us by the subcommittee of the Board of Adjustment on Monday, July 14th, 2025.

 7/28/2025
Alexander Kingsbury

 7/28/2025
Sara Pariseau

IDAHO FALLS CLERK OFFICE

308 CONSTITUTION WAY
IDAHO FALLS, ID 83405
2086128415

7/28/25 11:14:16 AM

Ref #: R209349347655

Authorization Code: 693656

Total: \$150.00 USD

Card Number: XXXXXXXXXXXX6328

Card Holder: ALEXANDER KINGSBURT

Card Brand: VISA

STAFF REPORT
APPEAL OF ZONING VIOLATION
1796 Charlene Street
July 14, 2025



Community
Development
Services

Project Manager:
Naysha Foster

Applicant:
Alexander
Kingsbury

Owners: Alexander
Kingsbury & Sara
Pariseau

Location: 1796
Charlene Street.
Generally located,
North of Broadway,
east of N Bellin Rd,
south of Grandview
Dr, and west of N
Skyline.

Existing Zoning:
R1, Single
Dwelling
Residential

**Future Land Use
Map:** General
Urban

Attachments:

1. Zoning Ordinance
2. Right to Farm Act
3. Maps and Aerial Photos
4. Violation letter and Inspection photos
5. Appeal Letter and Historic Photos
6. Record from Previous Appeal

Requested Action: To approve the appeal of interpretation of the Zoning Ordinance.

History: The lot located at 1796 Charlene Street (the "Property") was annexed into the City of Idaho Falls (the "City") and platted as part of the Westland Heights Addition Division 2 with an initial zoning of R1, a residential zoning designation, in February 1958. The zoning was changed from R1 to R2, a residential zoning designation, as requested by the Property owner in November 1958. In 1964 the Property was changed back to R1 because of a City-Wide Zone Change and has remained R1 since, including through the latest City-Wide Zone Change in April 2018. There is no record of variances or Conditional Use Permits for this Property.

On May 6, 2025, Code Enforcement sent a violation letter to the Property owner regarding the removal of weeds/grass over 10 inches in height. This was based upon anonymous complaints Code Enforcement received regarding the Property, and a subsequent visit to the Property wherein Code Enforcement viewed the vegetation as exceeding 10 inches in height. On May 16, 2025, Alexander Kingsbury and Sara Pariseau filed a written appeal with the City. On May 29, 2025, the Board of Adjustment (the "BOA," or the "Board") heard the appeal and determined the owners were growing alfalfa for agricultural purposes which was allowed per the weed ordinance. On June 24, 2025, a Zoning Violation letter was sent to the property owner stating agriculture was not a permitted use in an R1 Zone and an appeal for the violation was submitted on June 27, 2025.

Staff Comments: During the appeal hearing regarding the weed violation, Mr. Kingsbury provided testimony that the alfalfa was being grown as an ornamental plant and additionally for an agricultural purpose, which are two defenses provided within the weed ordinance. He claimed that he liked the look of alfalfa more than the look of the normal turf grass that is utilized by most City residents, and that he additionally was growing it in order to feed horses that he and his partner, Sara Pariseau, own and keep at a ranch outside City limits. The Board determined the alfalfa did not serve as an ornamental plant, but the Board did find that Mr. Kingsbury was growing the alfalfa for an agriculture purpose based upon his testimony.

The property is zoned R1. An R1 zone does not allow agriculture per section 11-2- 3 of the Zoning Ordinance. An inspection of the property was done to see if the property was brought into compliance as Mr. Kingsbury was warned during the previous appeal hearing that R1 did not allow agriculture. The property at the time of the inspection was not in compliance. The alfalfa and other vegetation were over 10 inches and not maintained. A zoning violation letter was sent. Mr. Kingsbury requested an appeal. **Continued on Page 2**

Mr. Kingsbury's letter refers to various sections of the City's zoning code, which is found in Title 11 of the City Code. Section 11-1-5(A)(4)(a) provides that "[t]erms defined in the appendix of this Zoning Code shall have their defined meaning when used elsewhere in this Zoning Code." The appendix of the Zoning Code is found within Title 11, Chapter 7 of the City Code. The appendix defines agriculture and that definition should be used throughout the code. That definition is as follows:

Agriculture: The use of land for farming, pasturage, aquaculture, horticulture, floriculture, viticulture, and animal husbandry, including riding stables and equestrian schools and the associated accessory structures for packing, treating and storing produce to standard industry practices. "Agriculture" does not include commercial stock yards or feed yards, where a concentration of livestock is fed for the purpose of fattening for market.

While section 11-2-6 provides standards for allowed land uses, with a portion of that section addressing the standard for agricultural uses, that section in and of itself is not the definition for 'agriculture.' The standard for allowed land uses, as it pertains to agriculture uses, is as follows:

Agricultural uses, which includes animal husbandry, shall be limited for the purpose of providing family food and *for the use of those residing on the premises*, but not for commercial purposes. No more than one (1) llama, or horse and their dependent young shall be kept for each twenty thousand square feet (20,000 ft²) of lot area. For poultry, refer to Animal Control. (Ord. 3496, 12-8-22)

City Code 11-2-6(D) (emphasis added). It is worth noting that "for the use of those residing on the premises" is not limited to a use *upon* the premises. Such use can very well be for the purpose of growing feed on the premises, with the residents of that premises then utilizing the feed off the premises. Mr. Kingsbury indicated such were his intentions at the May 29, 2025 appeal hearing before the Board.

Mr. Kingsbury's letter also refers to the Right to Farm Act (the "Act"), Title 22, Chapter 45 of Idaho Code. The Idaho Legislature's intent for the Act is provided within the first section of the Act:

The legislature finds that agricultural activities conducted on farmland in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses, and in some cases prohibit investments in agricultural improvements. It is the intent of the legislature to reduce the loss to the state of its agricultural resources by *limiting the circumstances* under which agricultural operations may be deemed to be a nuisance. The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the state of Idaho.

Idaho Code section 22-4501 (emphasis added). Additionally, the Idaho Supreme Court has explained the Act in the following manner:

The Right to Farm Act codified in Idaho Code Title 22, Chapter 45 seeks to reduce the loss of agricultural operations by *limiting the circumstances* whereby the operations may be deemed a nuisance. The Act protects *existing agricultural operations* from being declared a nuisance *so long as the operation is not improper* or negligent. The Act prevents the adoption of ordinances or resolutions declaring as a nuisance any agricultural operations operated in accordance with *generally recognized agricultural practices*.

Whitted v. Canyon County Board of Com'rs, 137 Idaho 118, 124 44, P.3d 1173, 1179 (2002) (Statute citations omitted, emphasis added).

It is important to note that the Act does not create an indisputable right for anyone to be able to farm simply because they own land and intend to farm on it (otherwise the Act would outright state farming operations cannot be a nuisance, rather than *limit the circumstances* where it may be deemed such). The Act focuses specifically on *existing agricultural operations* and seeks to protect farmlands that are encroached by the growth of urban areas. This concept is provided in Idaho Code section 22-4503:

No agricultural operation, agricultural facility or expansion thereof shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after it has been in operation for more than one (1) year, when the operation, facility or expansion was not a nuisance at the time it began or was constructed. The provisions of this section shall not apply when a nuisance results from the improper or negligent operation of an agricultural operation, agricultural facility or expansion thereof.

The Idaho Supreme Court further commented on that principle in Payne v. Skarr, wherein the Court held that “the [Act] is more specifically tailored to encroachment of ‘urbanizing areas’ and situations where there have been changes in ‘surrounding nonagricultural activities’, which is not the case [in this matter]” Payne v. Skarr, 127 Idaho 341, 344, 900 P.2d 1352, 1355 (1995).

In this current matter at hand, the Act should not apply given that this property was a residential property from its initial annexation, and inasmuch had been participating in nonagricultural activities until Mr. Kingsbury’s and Mrs. Pariseau’s recent changes they made to the property. This is not a situation where the City’s growth was encroaching upon some rural farmland, or where the surrounding properties faced a substantial change in nonagricultural activities to render the property at hand a nuisance. Rather, this is a situation where a citizen is attempting to bring farmland into a portion of the City that has been an R1 or like zone (i.e. nonagricultural) since its annexation.

Mr. Kingsbury has cited to Idaho Code sections 22-4502(2) and 22-4502(2)(d) to provide the Act’s definition of “agricultural operation” and provide one of the listed lawful uses. Additional definitions within the Act, and pertinent to this situation, are “nonagricultural activities” and “improper or negligent operation,” which are found in Idaho Code section 22-4502 subsections (3) and (4). They provide the following:

(3) "Nonagricultural activities," for the purposes of this chapter, means residential, commercial or industrial property development and use not associated with the production of agricultural products.

(4) "Improper or negligent operation" means that the agricultural operation is not undertaken in conformity with federal, state and local laws and regulations or permits, and adversely affects the public health and safety.

Mr. Kingsbury’s property was established as residential upon its original annexation to the City. Any and all changes that may have occurred with the zoning of the property’s general area have fluctuated between various residential zones – it has never reflected a zone that permits agricultural use. Since annexation to the City, this zone (and by extension, the properties within) has always consisted of a nonagricultural activity. The alfalfa being grown as a means to provide feed for horses stored on a ranch outside City limits does not conform to local laws and regulations.

Mr. Kingbury’s letter also refers to Idaho Code section 22-4504. In its entirety, that section provides the following:

No city, county, taxing district or other political subdivision of this state shall adopt any ordinance or resolution that declares any agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices to be a nuisance, nor shall any zoning ordinance that requires abatement as a nuisance or forces the closure of any such agricultural operation or agricultural facility be adopted. Any such ordinance or resolution shall be void and shall have no force or effect. *Zoning and nuisance ordinances shall not apply to agricultural operations and agricultural facilities that were established outside the corporate limits of a municipality and then were incorporated into the municipality by annexation.* The county planning and zoning authority may adopt a nuisance waiver procedure to be recorded with the county recorder or appropriate county recording authority pursuant to residential divisions of property.

Idaho Code section 22-450 (emphasis added).

Again, Mr. Kingbury's property was not annexed into the City as an area that permits agricultural operations. It has been a residential, nonagricultural activity zone for over 67 years. As such, its zoning and nuisance ordinances apply without further repercussion of the Act.

COMPREHENSIVE ZONING ORDINANCE

11-3-3: PURPOSES OF RESIDENTIAL ZONES

(C) R1 Single Dwelling Residential Zone. This zone provides a residential zone which is representative of a less automobile-oriented, more walkable development pattern, characterized by somewhat smaller lot widths; and a somewhat denser residential environment than is characteristic of the RP Residential Park Zone. The principal uses in the R1 Residential Zone shall be single detached and attached dwelling units. This zone is also generally located near limited commercial services that provide daily household needs.

11-2-3: ALLOWED USES IN RESIDENTIAL ZONES

Table 11-2-1: ENCLOSED

COMPREHENSIVE PLAN



5. General Urban

Snapshot: The General Urban Transect denotes residential areas with a mix of commercial and service uses convenient to residents. These areas contain a wide variety of housing types, generally including small single-units, duplexes, triplexes, fourplexes, courtyard apartments, bungalow courts, townhouses, multiplexes and live-work units. Lot sizes are smaller and more compact than suburban areas. These areas could also include, parks, schools, churches and commercial services. These areas have highly connective street patterns, similar to the traditional grid-pattern that encourages bicycle and pedestrian usage. These areas should be near an existing or part of a new walkable center.

Local examples: Bonnavista Addition, Johns Height Subdivision, Jennie Lee Addition, Bell-Aire, Linden Park, Linden Trails, Falls Valley

11-2-3: ALLOWED USES IN RESIDENTIAL ZONES.

Table 11-2-1: Allowed Uses in Residential Zones

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone. *Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.								
	Residential							
Proposed Land Use Classification	RE	RP	R1	R2	TN	RMH	R3	R3A
Accessory Use	P	P	P	P	P	P	P	P
Agriculture*	P							
Animal Care Clinic*					P*			P
Artist Studio					P*			
Bed and Breakfast*								P
Boarding /Rooming House							P	P
Day Care, Center*			C ₂	P	P		P	P
Day Care, Group*	C ₁	C ₁	C ₁	P	P	C ₁	P	P
Day Care, Home	C ₁	C ₁	C ₁	P	P	C ₁	P	P
Dwelling, Accessory Unit*	P	P	P	P	P	P	P	P
Dwelling, Multi-Unit*				P*	P		P	P
Dwelling, Multi-Unit Attached*				P	P		P	P
Dwelling, Single Unit Attached*			P	P	P	P	P	P
Dwelling, Single Unit Detached	P	P	P	P	P	P	P	P
Dwelling, Two Unit				P	P		P	P
Eating Establishment, Limited					P*			P
Financial Institutions					P*			P
Food Processing, Small Scale					P*			P
Food Store					P*			P
Fuel Station					P*			
Health Care and Social Services					P*			P
Home Occupation*	C ₁	C ₁	C ₁	C ₁	C ₁	C ₁	C ₁	C ₁
Information Technology								P
Live-Work*					C ₁			P
Manufactured Home*	P	P	P	P	P	P	P	P
Mobile Home Park*						P		C ₂
Mortuary								P
Park and Recreation Facility*	P	P	P	P	P	P	P	P
Parking Facility								P
Personal Service					P*			P
Planned Unit Development*	C ₃	C ₃	C ₃	C ₃	C ₃	C ₃	C ₃	C ₃
Professional Service					P			P
Public Service Facility*	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂
Public Service Facility, Limited	P	P	P	P	P	P	P	P
Public Service Use								P
Recreational Vehicle Park*						P		

Proposed Land Use Classification	RE	RP	R1	R2	TN	RMH	R3	R3A
Religious Institution*	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂
Residential Care Facility							P	P
Retail					P*			C ₂
School	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂
Short Term Rental*	P	P	P	P	P	P	P	P
Transit Station								P

(Ord. 3218, 9-13-18) (Ord. 3358, 12-10-20) (Ord. 3451, 3-31-22) (Ord. 3458, 4-14-22)

(Ord. 3496, 12-8-22) (Ord.3574, 6-13-24)



Idaho Statutes

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

TITLE 22
AGRICULTURE AND HORTICULTURE
CHAPTER 45
RIGHT TO FARM

22-4501. LEGISLATIVE FINDINGS AND INTENT. The legislature finds that agricultural activities conducted on farmland in urbanizing areas are often subjected to nuisance lawsuits, and that such suits encourage and even force the premature removal of the lands from agricultural uses, and in some cases prohibit investments in agricultural improvements. It is the intent of the legislature to reduce the loss to the state of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance. The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the state of Idaho.

History:

[22-4501, added 1981, ch. 177, sec. 1, p. 311.]

How current is this law?



Idaho Statutes

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

TITLE 22
AGRICULTURE AND HORTICULTURE
CHAPTER 45
RIGHT TO FARM

22-4502. DEFINITIONS. As used in this chapter:

- (1) "Agricultural facility" includes, without limitation, any land, building, structure, ditch, drain, pond, impoundment, appurtenance, machinery or equipment that is used in an agricultural operation.
- (2) "Agricultural operation" means an activity or condition that occurs in connection with the production of agricultural products for food, fiber, fuel and other lawful uses, and includes, without limitation:
 - (a) Construction, expansion, use, maintenance and repair of an agricultural facility;
 - (b) Preparing land for agricultural production;
 - (c) Applying pesticides, herbicides or other chemicals, compounds or substances labeled for insects, pests, crops, weeds, water or soil;
 - (d) Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticultural crops, fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plants, plant products, plant byproducts, plant waste and plant compost;
 - (e) Breeding, hatching, raising, producing, feeding and keeping livestock, dairy animals, swine, fur-bearing animals, poultry, eggs, fish and other aquatic species, and other animals, animal products and animal byproducts, animal waste, animal compost, and bees, bee products and bee byproducts;
 - (f) Processing and packaging agricultural products, including the processing and packaging of agricultural products into food and other agricultural commodities;
 - (g) Manufacturing animal feed;
 - (h) Transporting agricultural products to or from an agricultural facility;
 - (i) Noise, odors, dust, fumes, light and other conditions associated with an agricultural operation or an agricultural facility;
 - (j) Selling agricultural products at a farmers or roadside market;
 - (k) Participating in a government-sponsored agricultural program; and
 - (l) The ingress and egress of agricultural aircraft to agricultural lands or treatment areas.
- (3) "Nonagricultural activities," for the purposes of this chapter, means residential, commercial or industrial property development and use not associated with the production of agricultural products.
- (4) "Improper or negligent operation" means that the agricultural operation is not undertaken in conformity with federal, state and local laws and regulations or permits, and adversely affects the public health and safety.

History:

[22-4502, added 1981, ch. 177, sec. 1, p. 311; am. 1997, ch. 341, sec. 1, p. 1025; am. 1999, ch. 377, sec. 1, p. 1035; am. 2011, ch. 229, sec. 1, p. 623; am. 2022, ch. 116, sec. 1, p. 424.]

How current is this law?



Idaho Statutes

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

TITLE 22
AGRICULTURE AND HORTICULTURE
CHAPTER 45
RIGHT TO FARM

22-4503. AGRICULTURAL OPERATION, AGRICULTURAL FACILITY OR EXPANSION THEREOF NOT A NUISANCE – EXCEPTION. No agricultural operation, agricultural facility or expansion thereof shall be or become a nuisance, private or public, by any changed conditions in or about the surrounding nonagricultural activities after it has been in operation for more than one (1) year, when the operation, facility or expansion was not a nuisance at the time it began or was constructed. The provisions of this section shall not apply when a nuisance results from the improper or negligent operation of an agricultural operation, agricultural facility or expansion thereof.

History:

[22-4503, added 1981, ch. 177, sec. 1, p. 312; am. 1999, ch. 377, sec. 2, p. 1035; am. 2011, ch. 229, sec. 2, p. 624.]

How current is this law?



Idaho Statutes

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

TITLE 22
AGRICULTURE AND HORTICULTURE
CHAPTER 45
RIGHT TO FARM

22-4504. LOCAL ORDINANCES. No city, county, taxing district or other political subdivision of this state shall adopt any ordinance or resolution that declares any agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices to be a nuisance, nor shall any zoning ordinance that requires abatement as a nuisance or forces the closure of any such agricultural operation or agricultural facility be adopted. Any such ordinance or resolution shall be void and shall have no force or effect. Zoning and nuisance ordinances shall not apply to agricultural operations and agricultural facilities that were established outside the corporate limits of a municipality and then were incorporated into the municipality by annexation. The county planning and zoning authority may adopt a nuisance waiver procedure to be recorded with the county recorder or appropriate county recording authority pursuant to residential divisions of property.

History:

[22-4504, added 1994, ch. 107, sec. 2, p. 239; am. 1997, ch. 341, sec. 2, p. 1026; am. 2011, ch. 229, sec. 3, p. 625.]

How current is this law?



Idaho Statutes

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

TITLE 22
AGRICULTURE AND HORTICULTURE
CHAPTER 45
RIGHT TO FARM

22-4505. NUISANCE ACTIONS. (1) An agricultural operation, agricultural facility or expansion thereof shall not be found to be a nuisance under the circumstances described in section 22-4503, Idaho Code.

(2) An agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices or in compliance with a state or federally issued permit shall not be found to be a public or private nuisance. The provisions of this subsection shall not apply when a nuisance results from the improper or negligent operation of an agricultural operation, agricultural facility or expansion thereof.

(3) If a public or private nuisance claim or cause of action is filed against the owner or operator of an agricultural operation or the owner of the land on which the agricultural operation is conducted and the applicable court finds that the owner or operator is the prevailing party in the action because the agricultural operation was conducted in accordance with this chapter, then the owner or operator shall be entitled to receive its reasonable attorney's fees and costs from the non-prevailing party.

(4)(a) Any person who files or makes more than one (1) meritless complaint with the Idaho department of agriculture, the Idaho department of environmental quality, the Idaho department of lands, or any other state or local law enforcement agency against a specific agricultural operation within a two (2) year period from the date of the first complaint shall be subject to the following penalties:

(i) Filing or making a second meritless complaint within two (2) years shall be an infraction and subject to a one hundred fifty dollar (\$150) fine.

(ii) Filing or making a third meritless complaint within two (2) years shall be an infraction and subject to a three hundred dollar (\$300) fine.

(iii) Filing or making a fourth or subsequent meritless complaint within two (2) years shall be a misdemeanor.

(b) For the purposes of this subsection, "meritless complaint" means a complaint made or filed with the Idaho department of agriculture, the Idaho department of environmental quality, the Idaho department of lands, or any other state or local law enforcement agency alleging that an agricultural operation constitutes a public or private nuisance as described in this chapter when that agricultural operation was operating in compliance with this chapter at the time of the complaint.

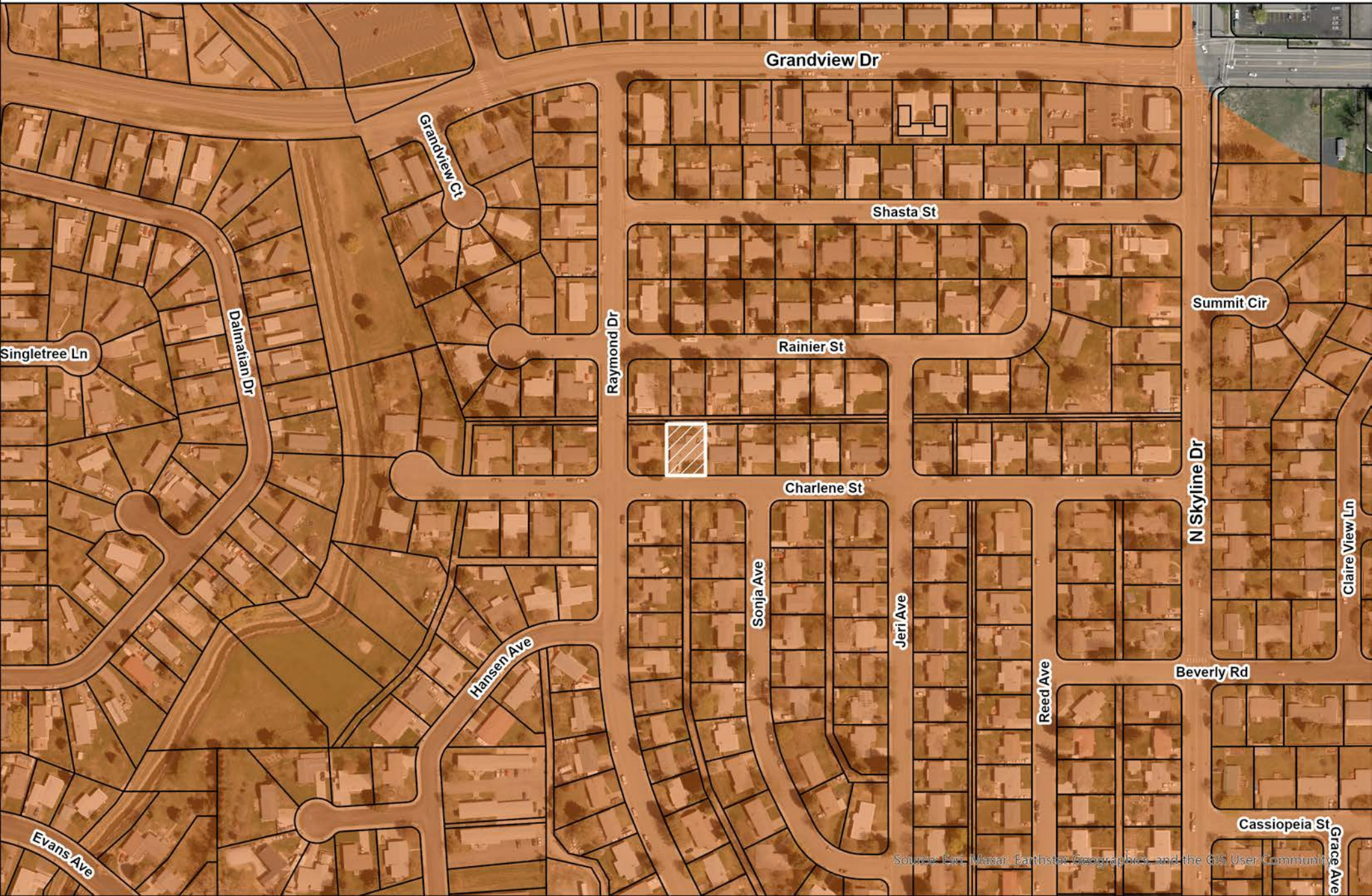
History:

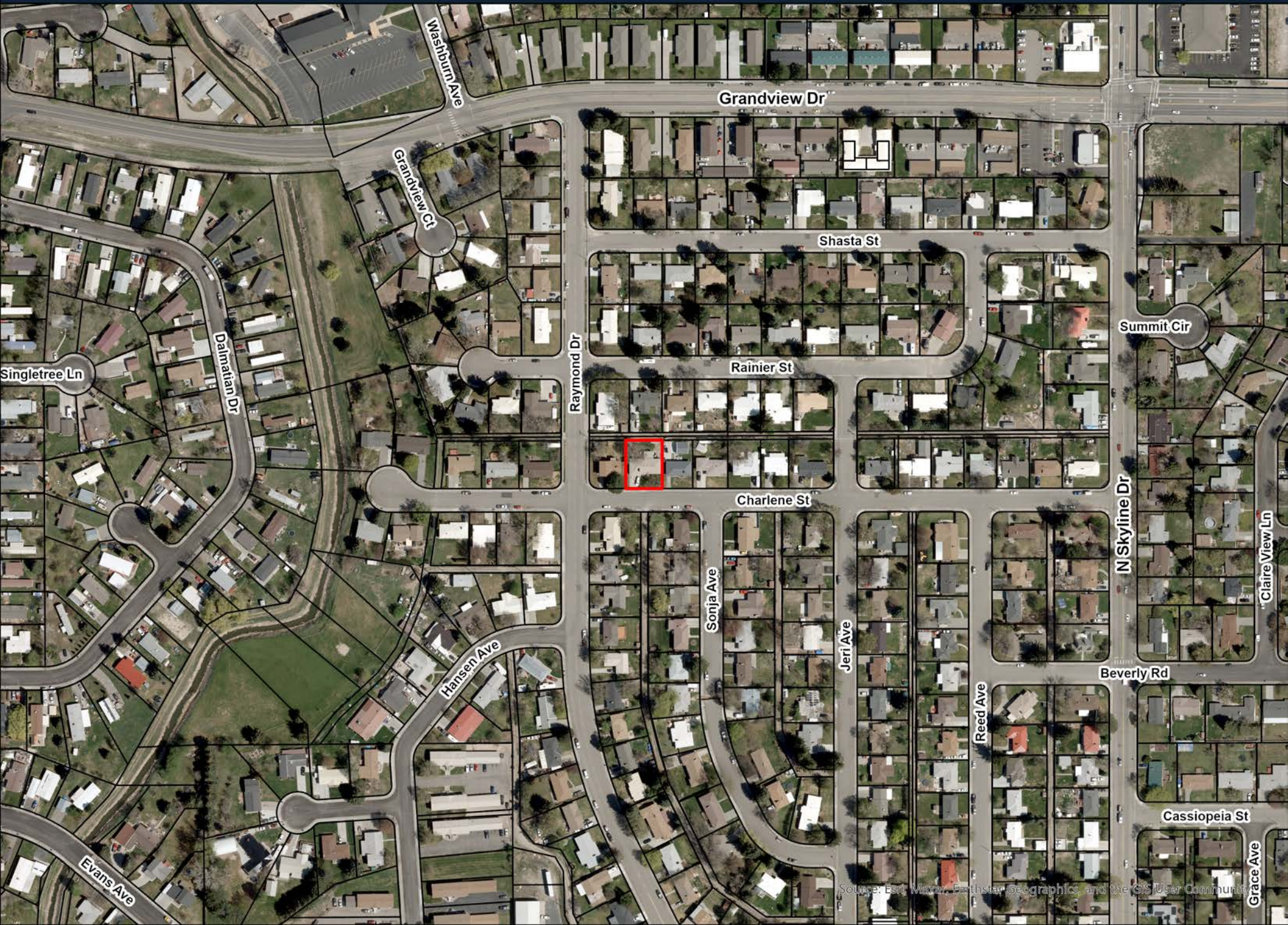
[22-4505, added 2011, ch. 229, sec. 4, p. 625; am. 2025, ch. 147, sec. 1, p. 730.]

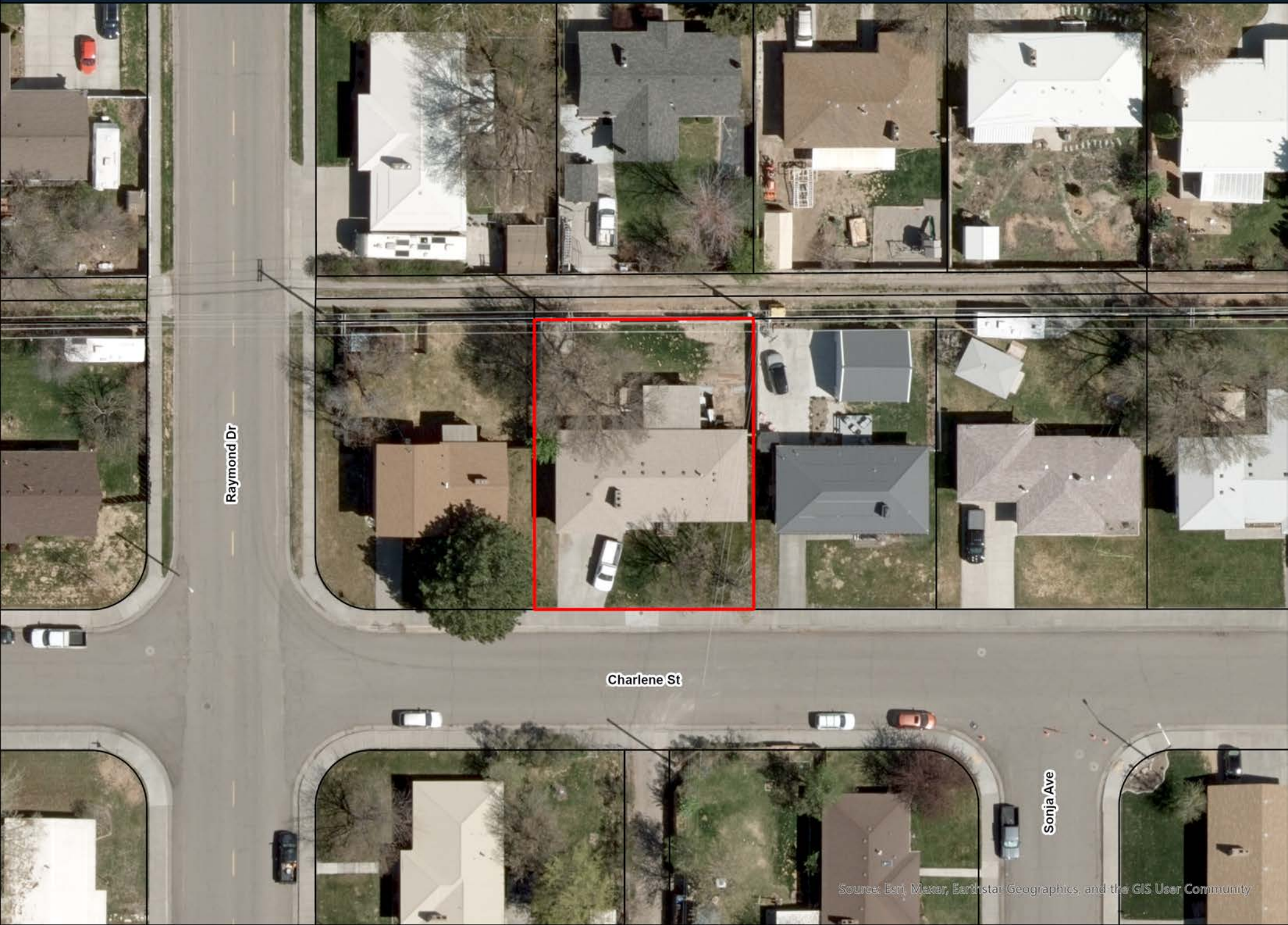
How current is this law?



- | | | | |
|---|---|---|--|
|  General Urban |  Mixed Use Centers and Corridors |  Special Use |  Urban Core |
|  Industrial |  Natural and Open Space |  Suburban | |









Date: July 8, 2025

NOTICE ZONING VIOLATION

Attention Parcel Owner: Sara Pariseau, Alexander Kingsbury AND/OR Occupant

Case Number	ZNV25-00078
Parcel ID	RPA260100606A
Owner	Sara Pariseau and Alexander Kingsbury
Physical Address	1796 Charlene St
Physical City State Zip	IDAHO FALLS, ID, 83402
Mailing Address	1796 Charlene St
Mailing City State Zip	IDAHO FALLS, ID, 83402
Legal Description	Lot 6, Block 6, Westland Heights Div 2, east 8 ft Lot 7, Block 6, Westland Heights Div 4

Ms. Pariseau and Mr. Kingsbury:

Our office was notified of a compliance issue with the property located at 1796 Charlene Street in Idaho Falls. The property is currently maintaining an agricultural use within a Single Dwelling Residential (“R1”) Zoning District, which violates the City’s Zoning Ordinance. It was confirmed during an appeal hearing for a weed violation that alfalfa is being grown in your yard for an agricultural use, as established by Mr. Kingsbury’s testimony within that hearing. Mr. Kingsbury additionally testified that the alfalfa is also grown for ornamental purposes. While the Board of Adjustment (the “Board”) disagreed that the alfalfa could be used for an ornamental purpose, as a defense to the weed ordinance, the Board did agree with Mr. Kingsbury’s argument that the alfalfa was grown for an agricultural purpose.

This letter is to make you aware that agriculture is not an allowed land use within the R1 Zone per Section 11-2-3, more specifically Table 11-2-3, of the Comprehensive Zoning Ordinance. The ordinance references are enclosed. To review ordinances in their entirety, please visit the URL’s listed below:

<https://www.idahofallsidaho.gov/DocumentCenter/View/7031/Title-11---Comprehensive-Zoning>

The only residential zone that permits agriculture is a Residential Estate Zoning District. The attached map shows that the property located at 1796 Charlene Street is contained within an R1 zone. This area has been an R1 zone for an extensive amount of time, and has never been a part of a Residential Estate zone or that of similar designation since its original annexation into the City of Idaho Falls. To allow for agricultural use in your neighborhood, the neighborhood would have to be rezoned to a Residential Estate zone. That in and of itself would be difficult to

do, given that the properties within your neighborhood do not meet many of the minimum standards for the Residential Estate zone.

To resolve the agricultural use violation within an R1 zone, you are advised to discontinue growing the alfalfa for agricultural purposes. One option may entail taking the alfalfa off of the property entirely. However, if it is your desire to still maintain the alfalfa on the property, another option would be to groom and maintain the alfalfa in a manner wherein it cannot be utilized for agricultural purposes. To be consistent with the Board's [Date of hearing] decision that the alfalfa is not an ornamental plant under the City's weed ordinance, the alfalfa may not be maintained beyond a height of 10 inches.

We would like to solicit your cooperation in resolving this matter to comply with City Code. If compliance is not completed within thirty (30) days after the date of this notice, the owner or owners of the property subject thereto shall be deemed to be in violation of this Zoning Code and shall be subject to the penalties set forth in Title 1, Chapter 4 General Penalty Provisions of City Code.

If you have any questions please call (208) 612-8899.

Sincerely,

Naysha Foster, CFM
Planner 1
Community Development Services

Any person receiving the notice, may, within ten (10) days of the date of service, request a hearing before the Board of Adjustment, which request shall be delivered to the Zoning Administrator. Call 208-612-8899 for questions regarding an appeal.





To Whom it may concern,

We, the undersigned, residents of 1796 Charlene Street in Idaho Falls, Idaho, acknowledge receipt of a document asserting that our property is in violation of city zoning code. Specifically, the document asserts that our property, being zoned R1, may not be used for any agricultural purpose.

City of Idaho Falls Zoning Code (retrieved from <https://www.idahofallsidaho.gov/DocumentCenter/View/7031/Title-11---Comprehensive-Zoning> on 26JUN2025) states in Table 11-2-1 ("Allowed uses in Residential Zones") that properties zoned R1 have a blank under "Agriculture", denoting that they are not permitted for such use. Throughout this letter, bolded type is used for emphasis of existing code and law.

Terms are defined within the code; section 11-1-5(A)(4)(a) clearly states that **"Terms defined in the Appendix of this Zoning Code shall have their defined meaning when used elsewhere in this Zoning Code."** Section 11-2-6 ("Standards for Allowed Land Uses") defines agricultural use under section (D) as **"Agriculture uses, including animal husbandry, shall be limited for the purpose of providing family food and for the use of those residing on the premises, but not for commercial purposes. No more than one (1) llama, or horse and their dependent young shall be kept for each twenty thousand square feet (20,000 ft²) of lot area. For poultry, refer to Animal Control.(Ord. 3496, 12-8-22)"**. The plants in question on our property are not used as food for the family or for any animals or people residing on the premises, and therefore do not satisfy the definition of "agricultural use".

11-1-5(A)(4)(b) does state that **"Where terms are used that are not defined, the term shall have the ordinary accepted meaning within the context with which the term is used."** One might possibly argue that the activities in question undertaken on our property do constitute "agriculture" under an ordinarily accepted meaning and that "agriculture" as a standalone term is not defined within the code. Under such circumstances, it becomes appropriate to consider Idaho State Law, specifically Idaho Statutes Title 22, Chapter 45, the "Right to Farm" law (retrieved from <https://legislature.idaho.gov/statutesrules/idstat/title22/t22ch45/> on 26JUN2025).

Specifically, 22-4502(2) Defines "Agricultural Operation": **"an activity or condition that occurs in connection with the production of agricultural products for food, fiber, fuel and other lawful uses, and includes, without limitation:"**. It then goes on to list a variety of uses, including 22-4502(2)(d): **"Planting, irrigating, growing, fertilizing, harvesting or producing agricultural, horticultural, floricultural and viticultural crops,**

fruits and vegetable products, field grains, seeds, hay, sod and nursery stock, and other plants, plant products, plant byproducts, plant waste and plant compost”.

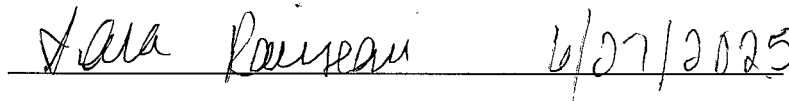
Bearing this definition in mind, 22-4501 states, in part, that **“The legislature also finds that the right to farm is a natural right and is recognized as a permitted use throughout the state of Idaho.”** 22-4504 goes on to state, in part, that **“No city, county, taxing district or other political subdivision of this state shall adopt any ordinance or resolution that declares any agricultural operation, agricultural facility or expansion thereof that is operated in accordance with generally recognized agricultural practices to be a nuisance, nor shall any zoning ordinance that requires abatement as a nuisance or forces the closure of any such agricultural operation or agricultural facility be adopted. Any such ordinance or resolution shall be void and shall have no force or effect.”**

As such, our understanding of State law, which takes precedent over local ordinances, is that our use is not merely allowable but is explicitly protected. The production of hay is clearly listed as part of the definition of an “agricultural operation”. State law says that “no city....shall adopt any ordinance or resolution that declares any agricultural operation...to be a nuisance, nor shall any zoning ordinance that requires abatement as a nuisance or forces closure...be adopted. Any such ordinance or resolution shall be void and shall have no force or effect.”

We therefore assert our rights under state law to continue our activities peacefully and lawfully as we have done, and state an intention for one or both of us to appear before a panel comprised of three or more members of the Board of Adjustment as scheduled and provided for by the City of Idaho Falls.



Kingsbury, Alexander S.



Pariseau, Sara K.





844 RAYMOND DR

1799 RAINIER ST

1781 RAINIER ST

RPA2603006007B
OLSON MARIE A
OLSON DAVID E
1806 CHARLENE ST

RPA2601006006A
PARISEAU SARA
KINGSBURY ALEXANDER
1796 CHARLENE ST

RPA2601006005B
QUEIROZ MARCIO DE
DARLING ANN
1788 CHARLENE ST

SANDRA L
844 RAYMOND DR

WOBIG LEE
1795 RAINIER ST

SKAAR NICHOLE
1781 RAINIER ST

HENKIN
1767 R

RPA2603006007B
OLSON MARIE A
OLSON DAVID E
1806 CHARLENE ST

RPA2601006006A
PARISEAU SARA
KINGSBURY ALEXANDER
1796 CHARLENE ST

RPA2601006005B
QUEIROZ MARCIO DE
DARLING ANN
1788 CHARLENE ST

RPA260
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ONKI
1778 CHA

SANDRA L
844 RAYMOND DR

WOBIG LEE
1795 RAINIER ST

SKAAR NICHOLE
1781 RAINIER ST

RPA2603006007B
OLSON MARIE A
OLSON DAVID E
1806 CHARLENE ST

RPA2601006006A
PARISEAU SARA
KINGSBURY ALEXANDER
1796 CHARLENE ST

RPA2601006005B
QUEIROZ MARCIO DE
DARLING ANN
1788 CHARLENE ST

Raymond Dr

844

1731

1806

1788

1773

1800

Charlene St

Charlene St

Dr

Ave

On June 27, 2025 @10:02 am, Mr. Kingsbury came in and mentioned something to Alex (Building Permit Clerk) of an appeal. I recognized him, had sent a zoning violation letter earlier in the month and heard "appeal" so I offered to help him. He handed me an envelope and a receipt from the Treasurers office for the appeal fees and said nothing. I asked him if he had any questions regarding the ordinance or the letter I sent him, he stated he did not have the confidence that I could answer any questions he had. My response was for him to have a good day. He then asked if he was going to get a copy of the receipt. I said, sorry I didn't know that you needed one, yes, I will get you a copy. I gave him a copy of the receipt and told him he would be notified as to when the meeting for the appeal was scheduled. He said understood and left.

May 27, 2025

To Whom It May Concern,

My name is Amber Hillman, and I have been a Code Enforcement Officer with the Police Department since January 2025. The following is my narrative regarding the property at 1796 Charlene St.

I received three citizen complaints through Frontline about the weeds on the front lawn of this residence within the last two months, all of which were anonymous. The first citizen complaint was received on March 28, 2025. On April 1, 2025, I went out to inspect the property. At this time, there were a small handful of weeds taller than 10", but the rest of the lawn was maintained. This was not enough to justify sending a letter of violation, which was noted in the complaint disposition. The second citizen complaint was received on May 6, 2025, and I went out to inspect the property on this same date. It was obvious the front yard was overgrown with what I assumed to be weeds. I am not a horticulturist and was unaware at the time it was Alfalfa. Per Code Enforcement protocol, I started a case (WED25-00005), took a photo of the lawn, and sent a letter of violation to the property owner. The third citizen complaint was received on May 13, 2025, with a photo attached to the complaint. Given I had sent a letter on May 6, 2025, I noted in the disposition that the matter was already being addressed.

On May 16, 2025, I was notified the property owner reported to the City Clerk's Office to file an appeal. It was relayed to Officer Cherise Frei that the owner was extremely upset because he was unable to contact anyone in the Code Enforcement Department, and Officer Frei was instructed it was best not to contact him. I was never provided with the gentleman's name or contact number. There were two missed calls on my work cellular after hours on May 15, 2025, and again on May 16, 2025, which was my day off. I am unsure if this was from the property owner as I did not receive a text or voice message.

Since starting my position as a Code Enforcement Officer, I have had the responsibility of addressing complaints and initiating cases for the west side of the City of Idaho Falls. My area is broken down into six sections, and I typically attempt to drive through each section every six weeks. I want it to be known that in no way was I targeting this property. I was addressing citizen complaints as we typically do daily.

I thank you for your time and consideration on this matter.

Sincerely,

A handwritten signature in black ink that reads "Amber Hillman". The signature is fluid and cursive, with the first name "Amber" and last name "Hillman" clearly distinguishable.

CEO Amber Hillman

INCIDENT INFO:

CITIZEN REPORTING ID: 13402
DATE: 3/28/2025
TIME: 10:00 AM
TYPE: Code Enforcement Violation
SUBMITTED BY: ANONYMOUS
INCIDENT LOCATION: 1796 Charlene St
INCIDENT CITY: Idaho Falls
INCIDENT STATE: Idaho
INCIDENT ZIP: 83402
CAD/Report #: 25-12212

PERSONAL CONTACT INFO:

TELEPHONE
DATE OF BIRTH:
EMAIL:
IP ADDRESS: 8.23.153.2

VEHICLE INFORMATION:

MAKE:
MODEL:
YEAR:
BODY STYLE:
COLOR:
LICENSE PLATE:
STATE:
VIN:

REPORT NARRATIVE:

Front yard of this residence has weeds over 10" tall.

DISPOSITION :

DATE: 4/1/2025
OFFICER: Amber Hillman
COMMENTS: Upon investigation, there are a small handful of weeds that are taller than 10", but the rest of the lawn is maintained. This isn't enough to justify sending a letter. I will keep an eye on the property as the weather improves.

PROPERTY INFORMATION:

INCIDENT INFO:	VEHICLE INFORMATION:	PROPERTY INFORMATION:
CITIZEN REPORTING ID: 13882	MAKE:	
DATE: 5/6/2025	MODEL:	
TIME: 09:00 AM	YEAR:	
TYPE: Code Enforcement Violation	BODY STYLE:	
SUBMITTED BY: ANONYMOUS	COLOR:	
INCIDENT LOCATION: 1796 Charlene St	LICENSE PLATE:	
INCIDENT CITY: Idaho Falls	STATE:	
INCIDENT STATE: Idaho	VIN:	
INCIDENT ZIP: 83402	REPORT NARRATIVE:	
CAD/Report #: 25-17693	Weeds over 10" tall on front lawn.	
PERSONAL CONTACT INFO:	DISPOSITION :	
TELEPHONE	DATE: 5/6/2025	
DATE OF BIRTH:	OFFICER: Amber Hillman	
EMAIL:	COMMENTS: Started case, took photos, sending letter.	
IP ADDRESS: 8.23.153.2		

Document Library:

INCIDENT INFO:

CITIZEN REPORTING ID: 13967
DATE: 5/13/2025
TIME: 08:00 AM
TYPE: Code Enforcement Violation
SUBMITTED BY: ANONYMOUS
INCIDENT LOCATION: 1796 Charlene St
INCIDENT CITY: Idaho Falls
INCIDENT STATE: Idaho
INCIDENT ZIP: 83402
CAD/Report #: 25-17693

PERSONAL CONTACT INFO:

TELEPHONE
DATE OF BIRTH:
EMAIL:
IP ADDRESS: 38.240.93.65

VEHICLE INFORMATION:

MAKE:
MODEL:
YEAR:
BODY STYLE:
COLOR:
LICENSE PLATE:
STATE:
VIN:

REPORT NARRATIVE:

Weeds over 10" tall.

DISPOSITION :

DATE: 5/14/2025
OFFICER: Amber Hillman
COMMENTS: Previously opened case regarding a similar complaint. Refer to case 25-17693.

PROPERTY INFORMATION:

Front lawn of the house



ROTATE IMAGE

Document Library:



POLICE DEPARTMENT
Code Enforcement
City of Idaho Falls
775 Northgate Mile
Idaho Falls, ID 83401

Notice of Violation

Case Number: WED25-00005

Property Address: 1796 Charlene St

Violation Case Type: Code Violation - Weeds

Owner:

SARA PARISEAU

1796 CHARLENE ST

IDAHO FALLS, ID 83402

Dear SARA PARISEAU,

This office conducted an inspection and confirmed code violations on the property located at 1796 Charlene St. These violations constitute a public nuisance. We would like to solicit your cooperation to comply with City Code by the COMPLIANCE DATE listed.

If the listed violation(s) are not brought into compliance the fees listed below will be imposed for each day the property is out of compliance.

If you have questions regarding this matter, please contact our office, Monday - Friday 8:00 a.m. - 5:00 p.m. Thank you for your quick response to this matter.

Code Enforcement Division

Violation Date(s):

5/6/2025 5-8-11: REMOVAL OF WEEDS

5-8-11 REMOVAL OF WEEDS

It shall be unlawful for any owner or occupant of any real property within the City to allow weeds to grow, exist or accumulate upon such real property.

This office was notified of a code violation on this property. The property contained overgrown grass/weeds. Weeds/grasses must be cut to ten (10) inches or lower and be maintained throughout the growing season. Please cut all weeds and grass below ten (10) inches. This property must be in compliance prior to May 21, 2025.

Additional Notes:

If the above described violation(s) are not brought into compliance by the date shown above the following fees will be imposed for each day the property is out of compliance.

First Day: \$35.00

Second Day: \$75.00

Third Day and any subsequent Days: \$150.00

Unresolved fees may result in your information being turned over to collections.

Unresolved violation may result in a misdemeanor citation.

Those wishing to appeal this notice may do so by submitting his or her objections to the abatement of the nuisance in writing, along with a \$150.00 filing fee, to the City Clerk within ten (10) calendar days following receipt of this notice and request an appeal hearing before the Board of Adjustment.





Definition

Example Sentences

Word History

Phrases Containing

Rhymes

Entries

alfalfa noun

al·fal·fa al-'fal-fə

: a deep-rooted leguminous perennial plant (*Medicago sativa*) of southwestern Asia that is widely grown for hay and forage

Recent Examples on the Web

Examples are automatically compiled from online sources to show current usage. [Read More](#)

According to Experts Myth: Powdered Greens Are Better Than Actual Veggies These packets of powdered **alfalfa**, wheatgrass, spirulina, and more claim to deliver a ton of nutrition in a small package (with a hefty price tag).

— Alice Oglethorpe, *Better Homes & Gardens*, 24 Mar. 2025

Reggie Premo, a community outreach specialist at the University of Nevada-Reno Extension, grew up cattle ranching and farming **alfalfa** in Duck Valley.

— Jazmin Orozco Rodriguez | Kff Health News, *ABC News*, 29 Apr. 2025

All is well as his unshod hooves crush the frozen, short-shorn **alfalfa**.

— Mary Ann Grossmann, *Twin Cities*, 13 Apr. 2025

Your flowers will also benefit from enhancers, such as bonemeal, **alfalfa** meal, and earthworm castings, which promote healthy growth.

— Sumiah Dorsey, *Southern Living*, 8 Apr. 2025

LITTER: Garbage and Rubbish, including, but not limited to, that which is loosely strewn, uncollected, unpackaged, or uncontained which may include paper, bottles, cans, glass, crockery, plastic, rubber, waste building materials, disposable packages, cigarette butts and other tobacco products, gum, and containers.

NOXIOUS WEED: Any plant classified by the Director of the Idaho State Department of Agriculture as a "noxious weed" in Title 06, Chapter 22 of the Idaho Administrative Procedures Act (IDAPA), as amended from time to time.

OCCUPANT: Any person having control, possession or charge over real property.

ORNAMENTAL FLOWERS; ORNAMENTAL PLANTS: Flowers and plants which are intentionally planted for decorative purposes (including screening, accent, specimen, color, landscaping, xeriscaping, and aesthetic purposes) and are not grown primarily for agricultural purposes and which are not trees, shrubs, or weeds, as defined in this Chapter). Many are flowering plants and garden varieties that tend to be specially bred cultivars that improve on the original species in qualities such as color, shape, scent, and long-lasting blooms.

RUBBISH. Nonputrescible solid wastes (excluding ashes) consisting of both combustible and noncombustible wastes and Bulky Waste. Combustible rubbish includes paper, rags, cartons, wood, furniture, rubber, plastics, yard trimmings, leaves, and similar material. Noncombustible rubbish includes glass, crockery, metal cans, metal furniture and like material, which will not burn at ordinary incinerator temperatures (not less than one thousand six hundred (1600) degrees F).

SHRUB: A woody perennial plant, branched at or near the base and which at maturity is expected to grow less than fifteen (15') feet in height.

TREE: A woody and perennial plant, usually having one main stem or trunk and many branches and which, at maturity is expected to exceed fifteen feet (15') in height and two inches (2") in diameter. The failure to achieve such height at maturity shall not preclude its consideration as a tree.

WEED: A plant (that is not a tree or a shrub, as defined in this Chapter), growing or dead that is more than ten (10") inches in height, measured from the surface of the area contiguous with such a plant, unless otherwise permitted by this Chapter. Every plant identified as a noxious weed by the Idaho Administrative Procedure Act (IDAPA) 02.06.22 is prohibited within City limits. Plants that are not noxious weeds and are otherwise permitted in this Chapter, such as ornamental flowers and ornamental plants, shall not be considered weeds for purposes of this Chapter.

(Ord. 2968, 10-9-14; Ord. 3176, 04-12-18; Ord. 3279, 10-24-19; Ord. 3332, 09-10-20; Ord. 3504, 02-23-23)

- (B) Upon any property owned or operated by any recycler, salvage dealer, or junk yard dealer licensed by the City, subject to all provisions and restrictions contained in any ordinance or statute governing the operation of such licensed business.

(Ord. 3054, 01-26-16; Ord. 3176, 04-12-18; Ord 3279, 10-24-19)

5-8-10: LITTER VIOLATION: The hauling, depositing, or allowing of litter to be deposited in violation of this Code is an infraction for every twenty-four (24) hour time period that such litter is not removed following City notice to remove unless the litter is not removed after seventy-two (72) hours following the first notice of infraction, after which the violation automatically becomes a misdemeanor.

(Ord. 3279, 10-24-19)

5-8-11: REMOVAL OF PLANT NUISANCES.

- (A) It shall be unlawful and a public nuisance for any owner(s) or occupant(s) or for controller(s) of any real property within the City to allow weeds or noxious weeds to grow, exist or accumulate upon such real property.

- (B) Permitted Plantings. Where otherwise allowed by this Code (including this Chapter and the Zoning Code), and where it is not determined by the Fire Marshall to be a fire hazard or fire nuisance or determined by the Director of Community Development Services or Code Enforcement to be a public nuisance, the following plantings that are not noxious weeds are permitted:

- (1) Ornamental flowers and ornamental plants;
- (2) Plants grown for agricultural purpose or food production; and
- (3) Intentional landscape or xeriscape plantings, including native or drought tolerant plants, where the height of the plants in excess of ten inches (10') is not due to neglect.

(Ord. 3054, 01-26-16; Ord. 3279, 10-24-19; Ord. 3504, 02-23-23; Ord. 3572; 05-23-24)

5-8-12: NOTICE TO ABATE:

- (A) Whenever a violation of this Chapter comprises a public nuisance, a notice shall be issued by the City to the owner(s), occupant(s), or person(s) of the premises requiring abatement of the nuisance identified in this notice.
- (B) Said notice shall be served upon the owner(s) of the affected premises, as such ownership is shown on the last property tax assessment rolls of Bonneville County, Idaho, and upon any known occupant(s) or controller(s) of the premises. Service of notice may be accomplished through personal service on the owner(s), occupant(s), or

11-2-3: ALLOWED USES IN RESIDENTIAL ZONES.

Table 11-2-1: Allowed Uses in Residential Zones

P = permitted use. C1 = administrative conditional use. C2 = Board of Adjustment conditional use. C3 = City Council conditional use. A blank denotes a use that is not allowed in that zone.								
*Indicates uses that are subject to specific land use provisions set forth in the Standards for Allowed Land Uses Section of this Chapter.								
Proposed Land Use Classification	Residential							
	RE	RP	R1	R2	TN	RMH	R3	R3A
Accessory Use	P	P	P	P	P	P	P	P
Agriculture*	P							
Animal Care Clinic*					P*			P
Artist Studio					P*			
Bed and Breakfast*								P
Boarding /Rooming House							P	P
Day Care, Center*			C ₁	P	P		P	P
Day Care, Group*	C ₁	C ₁	C ₁	P	P	C ₁	P	P
Day Care, Home	C ₁	C ₁	C ₁	P	P	C ₁	P	P
Dwelling, Accessory Unit*	P	P	P	P	P	P	P	P
Dwelling, Multi-Unit*				P*	P		P	P
Dwelling, Multi-Unit Attached*				P	P		P	P
Dwelling, Single Unit Attached*			P	P	P	P	P	P
Dwelling, Single Unit Detached	P	P	P	P	P	P	P	P
Dwelling, Two Unit				P	P		P	P
Eating Establishment, Limited					P*			P
Financial Institutions					P*			P
Food Processing, Small Scale					P*			P
Food Store					P*			P
Fuel Station					P*			
Health Care and Social Services					P*			P
Home Occupation*	C ₁	C ₁	C ₁	C ₁	C ₁	C ₁	C ₁	C ₁
Information Technology								P
Live-Work*					C ₁			P
Manufactured Home*	P	P	P	P	P	P	P	P
Mobile Home Park*						P		C ₂
Mortuary								P
Park and Recreation Facility*	P	P	P	P	P	P	P	P
Parking Facility								P
Personal Service					P*			P
Planned Unit Development*	C ₁	C ₃	C ₃	C ₃	C ₃	C ₃	C ₃	C ₃
Professional Service					P			P
Public Service Facility*	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂	C ₂
Public Service Facility, Limited	P	P	P	P	P	P	P	P
Public Service Use								P
Recreational Vehicle Park*						P		

To Whom it may concern,

The undersigned, occupants of 1796 Charlene Street in Idaho Falls, acknowledge the receipt of notice of alleged code violation associated with case #WED25-00005 on the 12th day of May, 2025. Said notice claims we are in violation of City code section 5-8-11. The notice quotes this section as of 5/6/2025, stating "It shall be unlawful for any owner or occupant of any real property within the City to allow weeds to grow, exist, or accumulate upon such real property".

City code section 5-8-11, retrieved from <https://www.idahofallsidaho.gov/171/City-Code> on the 13th of May, 2025, differs in some details from the wording in the notice. It states, in full:

5-8-11: REMOVAL OF PLANT NUISANCES.

(A) It shall be unlawful and a public nuisance for any owner(s) or occupant(s) or for controller(s) of any real property within the City to allow weeds or noxious weeds to grow, exist or accumulate upon such real property.

(B) Permitted Plantings. Where otherwise allowed by this Code (including this Chapter and the Zoning Code), and where it is not determined by the Fire Marshall to be a fire hazard or fire nuisance or determined by the Director of Community Development Services or Code Enforcement to be a public nuisance, the following plantings that are not noxious weeds are permitted:

(1) Ornamental flowers and ornamental plants;

(2) Plants grown for agricultural purpose or food production; and

(3) Intentional landscape or xeriscape plantings, including native or drought tolerant plants, where the height of the plants in excess of ten inches (10') is not due to neglect.

(Ord. 3054, 01-26-16; Ord. 3279, 10-24-19; Ord. 3504, 02-23-23; Ord. 3572; 05-23-24)

(City code as retrieved bolded for differentiation).

We have no access to any source for City code other than the official city website. Per that same document, section 5-8-2 ("Definitions");

WEED: A plant (that is not a tree or a shrub, as defined in this Chapter), growing or dead that is more than ten (10") inches in height, measured from the surface of the area contiguous with such a plant, unless otherwise permitted by this Chapter. Every plant identified as a noxious weed by the Idaho Administrative Procedure Act (IDAPA) 02.06.22 is prohibited within City limits. Plants that are not noxious weeds and are otherwise permitted in this Chapter, such as ornamental flowers and ornamental plants, shall not be considered weeds for purposes of this Chapter.

Our front lawn does indeed consist largely of plants that are greater than 10 inches in height. However, the lawn consists of a watered, intentionally planted patch of alfalfa, meant not only for ornamentation, but for harvest and use as animal feed. IDAPA 06.02.22, retrieved from <https://adminrules.idaho.gov/rules/2013/02/0622.pdf> on the 13th of May, 2025, does not list any species of alfalfa as noxious. Alfalfa is not listed anywhere in Chapter 8 of City code, or in any other part of City code.

While we acknowledge that the appearance may be unusual and not to the specific taste of the unnamed accuser, our choice of planting is clearly compliant in accordance with 5-8-11 B (1) and (2). Also, given that these plants are not taller than 10 inches due to neglect, and that they were planted intentionally, they could easily be considered permitted under section (3), dependent upon the definition of "drought tolerant".

Regarding 5-8-11(A), our choice of planting clearly does not fall under the City code definition of "weeds", since they are not noxious and are otherwise permitted under section (B).

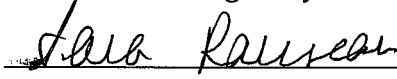
We therefore appeal the accusation per section 5-8-12(C) and request a hearing before 3 members of the Board of Adjustment per section 5-8-13.



Alexander S. Kingsbury

alexanderskingsburye

gmail.com



5/14/2025

Sara K. Pariseau

REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
AN APPEAL TO OVERTURN A WEED VIOLATION BASED ON CODE
ENFORCEMENTS INTERPRETATION OF THE WEED ORDINANCE, AT 1796
CHARLENE STREET.

WHEREAS, the applicant filed an application for the appeal on May 16, 2025; and

WHEREAS, this matter came before the Idaho Falls Board of Adjustment (the "Board") during a duly noticed public meeting on May 29, 2025; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The Board considered the request pursuant to City of Idaho Falls Comprehensive Plan, City of Idaho Falls Zoning Ordinance, City of Idaho Falls Subdivision Ordinance, the Local Land Use Planning Act, and other applicable development regulations.
2. The property is currently zoned R1, Single Dwelling Residential.
3. Code Enforcement sent a violation letter to the occupants of 1796 Charlene Street regarding a violation of Section 5-8-11 of Idaho Falls City Code (the "Weed Ordinance") on May 6, 2025.
4. On May 16, 2025, Alexander Kingsbury (the "Appellant") applied for an appeal of Code Enforcements interpretation of the Weed Ordinance.
5. In the appeal the Appellant stated that he was growing alfalfa in his yard, which is not a weed. The Appellant defended growing alfalfa instead of grass within his front yard, claiming that it is an ornamental plant and is grown for agricultural purposes. Mr. Kingsbury claims he likes the aesthetic look of alfalfa over turf grass, and additionally claimed that he feeds the alfalfa to his horses that reside on a ranch off of his property.
6. Code Enforcement indicated to the Board that its attention was drawn to the property due to multiple anonymous complaints about the property. Following the first couple of complaints, Code Enforcement visited the property and did not feel that there was enough for violation. Following the third complaint, it appeared that the vegetation, which is now known to be alfalfa, was growing over ten (10) inches and appeared to be a possible violation of the Weed Ordinance. Mr. Kingsbury's intentions were unknown to Code Enforcement at that time.
7. The Board heard from both Code Enforcement and the Appellant on this matter. The Board did not agree with Appellant that the alfalfa was an ornamental grass. However, the Board determined that the growing of alfalfa to feed to animals was considered an agricultural purpose according to the way the Weed Ordinance is written and, on that basis, overturned the weed violation. Wherein the letter of violation solely focused on whether the property located at 1796 Charlene Street violated the Weed Ordinance, the Board was advised to solely focus on a possible Weed Ordinance violation. The Appellant was advised that possible other violations may exist from using one's yard for agricultural purposes in an R1 zone – but for the purposes of hearing that criteria was not addressed by the Board.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the Board of Adjustment of the City of Idaho Falls overturns the violation as presented.

PASSED BY BOARD OF ADJUSTMENT OF THE CITY OF IDAHO FALLS

THIS 21ST DAY OF JUNE, 2025

A large, stylized handwritten signature in blue ink, likely belonging to Nathan Kennedy, is written over a horizontal line.

Nathan Kennedy - Chair

BOARD OF ADJUSTMENT SPECIAL MEETING

May 29, 2025

Council Chambers
680 Park Ave

Members Present: Nathan Kennedy - Chair, Ron Johnson - Vice-Chair, Jenna Price

Staff Present: Naysha Foster, Current Planner, David Peterson, Current Planner, Jacob Beck, Assistant City Attorney

Call to Order: Nathan Kennedy called the meeting to order at 11:37 a.m.

Appeal

App25-001: Appeal of Code Enforcement Plant Nuisance violation.

Foster informed the Board to please remember to speak directly into the microphone. We're using a small recording device to create a transferable record, and it doesn't always capture sound well unless you're speaking clearly into the microphone.

Beck followed up with a reminder that this process is a quasi-judicial proceeding, it's important that everything is properly recorded. The appellant-the person who filed the appeal-will present their case first. Then, the code enforcement officer-the respondent-will have a chance to respond with their testimony and evidence. After that, the appellant may offer rebuttal testimony. As Board of Adjustment members, you're responsible for listening to all testimony and may ask questions at any point to clarify concerns or gather more information. The Board of Adjustment serves as the final decision-maker in this appeal. The Board are the triers of fact, meaning you determine how much weight to give any testimony and ultimately decide the outcome. Although this is a public meeting and the public may attend, public comment is not allowed. Only those called by the appellant or Code Enforcement may provide testimony. After the appellant's rebuttal, the hearing will close, and the Board will deliberate and make a decision. The Boards discussion should be open and deliberate, and it's important to clearly explain your reasoning when making your decision. If any party—whether a citizen, officer, or department—disagrees with the Board's decision, they have 14 days to submit a written notice of intent to appeal to the City Council. Beck clarified the Board of Adjustment's decision is based on a majority vote, not a unanimous one. However, the majority must clearly state the factual basis for the decision. Before beginning, the Chair should acknowledge the presence of a quorum. Once that's confirmed, the appellant may present their case and may also call others to testify. As with other hearings, anyone who testifies must state their full name and address for the record.

Kennedy opened the appeal.

Applicant: Alexander Scott Kingsbury, the applicant and occupant of 1796 Charlene Street, Idaho Falls, ID, acknowledged receiving a code violation notice (case #WED25-00005) on May

12, 2025, citing a violation of City Code section 5-8-11. Kingsbury addressed the Board and clarified that he did not display any extreme or inappropriate behavior during his interactions with city staff and disputed any characterization of being "extremely upset." He stated that he remained calm and respectful throughout. Kingsbury noted that he had not intended to contact Code Enforcement but did so at the direction of the City Treasurer in order to proceed with a \$150 payment related to a complaint. He emphasized the urgency of making the payment due to his limited availability to take time off work and expressed appreciation for the professionalism of Officer Hellman and stated he did not believe any city personnel acted with malice or bias. He described the situation as an honest misunderstanding. Kingsbury acknowledged that his front yard did contain plants over 10 inches tall, which had been recently trimmed. He explained that the plants—specifically alfalfa—were intentionally planted for agricultural purposes, namely animal feed for a co-occupant's equestrian activities. He stated that Sarah Parriso, the co-resident, and original addressee of the Code Enforcement letter, is a Massachusetts native who values the ability to pursue equestrian interests in Idaho. Kingsbury described alfalfa as a practical and visually preferable alternative to turf grass and emphasized that their planting was based on a good-faith interpretation of City Code. He stated the plants are ornamental and agricultural in nature and were planted only after reviewing applicable code language. He asserted that the Code Enforcement action appeared to be based on a misunderstanding and reiterated that he does not believe there was any targeting involved. Kingsbury concluded by noting that he has no formal legal training and apologized if his remarks did not follow strict procedural norms. He welcomed any questions from the Board.

Johnson asked where the horses are kept. Kingsbury stated that the horses are kept at R.R. Ranch, owned by Rhonda Skinner, located a bit north of town. It is approximately one mile past the Cowboy Oil Ranch.

Kennedy asked what the property is zoned? Beck said if the Board has questions about the zoning code, they may ask staff for clarification. It was confirmed the property is zoned R1, however, any detailed discussion or interpretation of what R1 entails should not influence today's decision. Staff intends to address the R1 zoning code further after the Board completes their deliberations on this matter. Beck explained that testimony will be heard first, and code discussion will follow at the appropriate time.

Amber Hillman, a Code Enforcement Officer with the City of Idaho Falls Police Department since January 2025, received three anonymous complaints about weeds at 1796 Charlene St. between March and May 2025. After inspecting the property on April 1, she found only a few tall weeds—not enough to issue a violation. A second inspection on May 6 revealed significant overgrowth, later identified as Alfalfa. She opened a case (WED25-00005), took a photo, and issued a violation letter. A third complaint on May 13 included a photo, but no further action was needed as the case was already in progress. On May 16, 2025, Amber Hillman was informed that the property owner of 1796 Charlene St. filed an appeal and was upset about being unable to reach Code Enforcement. Hillman did not receive the owner's name or contact information, though she had two missed calls on May 15 and 16, with no voicemail or text. She emphasized that she was not targeting the property but was responding to citizen complaints, as part of her routine duties covering six sections on the west side of Idaho Falls. Reviewing the appellant's claim regarding the cultivation of alfalfa for ornamental and agricultural purposes, Officer

Hillman referenced city code definitions. She explained that ornamental plants must be grown primarily for decorative purposes, unlike alfalfa, which is classified as an agricultural plant. To support this, she presented a memo from the city horticulturist, which was provided to the appellant and the Board. Officer Hillman then invited questions from the Board.

Prior to the rebuttal portion of the hearing, Beck provided clarification regarding the relevance of zoning in the Board's deliberations. It was noted that while a reference to zoning (specifically residential zones) was included in the Board's packet, the violation letter issued to the appellant pertained solely to the weed ordinance under the general municipal code and did not cite zoning-specific regulations. Beck advised the Board that the zoning designation of the property (R1) should not factor into their deliberation or decision-making, as it was not part of the official notice of violation. The Board was further instructed that it is legal counsel's opinion that the page on residential zoning included in the packet should not be referred to in their consideration of the matter. Beck indicated an intention to address the zoning code topic in more detail at a future time, following the conclusion of this hearing.

Kingsbury provided a brief rebuttal and acknowledged the validity of citizen complaints but asserted that complaints alone do not confer legal standing unless the subject of the complaint violates established law. He referenced a newly presented memorandum from a horticulturist (Mr. Dustin Edwards), which classified the plant in question (alfalfa) as an agricultural crop. The appellant argued that no forestry code is cited in municipal code and that he is subject only to city ordinance. Kingsbury stated that the alfalfa in his front yard does not meet the city's definition of a weed and is not listed as a noxious weed under the referenced IDAPA 06.02.22. Kingsbury clarified that while the alfalfa may eventually be used for horse feed, its primary purpose is ornamental, as he finds it more aesthetically pleasing than turf grass. He also noted he had only recently become a co-owner of one horse and had no prior experience growing alfalfa.

Johnson inquired about the appellant's experience with growing alfalfa and the feasibility of harvesting it within city code height limitations (10 inches). Concerns were raised about the agricultural viability and nutritional quality of alfalfa if harvested prematurely.

The Board discussed the applicability of code section 5-8-11 regarding "Removal of Plant Nuisances" and whether the alfalfa qualified as a "permitted planting." Alfalfa was determined not to fall under this category, as it is not grown primarily for decorative purposes. The Board considered whether alfalfa qualifies under permitted plantings grown for agricultural or food production purposes. It was noted that other residential properties within Idaho Falls have front-yard gardens containing plants that exceed 10 inches in height. Kingsbury concluded by reaffirming his willingness to learn and to accept guidance, acknowledging his limited experience in both horse care and alfalfa cultivation.

Beck addressed the Board with clarification regarding the applicable code and the Board's responsibilities: Counsel emphasized that the Board must determine whether the alfalfa planted at the appellant's property qualifies as a plant grown for agricultural purposes or food production, as outlined in the relevant city ordinance. The Board was advised to evaluate the credibility of testimony provided, including the appellant's statement that the alfalfa is intended for use as horse feed. Legal counsel reiterated their earlier instruction that the zoning information

included in the meeting packet should be disregarded, as it was not referenced in the violation notice issued to the appellant. The matter before the Board is limited to the weed ordinance cited in that letter. Counsel stated that any discussion concerning the zoning code or additional interpretations would take place following the conclusion of the hearing.

Kennedy closed the public hearing.

Board Discussion:

The Board entered deliberations to determine whether the Code Enforcement Officer's interpretation and application of city code was proper regarding the appellant's use of alfalfa in the front yard.

Johnson expressed concern over the appropriateness of growing alfalfa in a residential front yard, stating it is unconventional and typically reserved for agricultural fields. He said that alfalfa is neither ornamental nor aesthetically appealing, and that it may not be suitable for a front yard setting. Price acknowledged those concerns but differentiated between aesthetics and code compliance, emphasizing that the question before the Board is whether the alfalfa qualifies as a plant grown for agricultural purposes or food production, as referenced in City Code. Board members collectively affirmed that alfalfa does not meet the definition of an ornamental plant and that the key issue was determining whether the appellant's planting qualifies as agricultural. Beck reiterated that the Board's role is to interpret the ordinance and determine whether the Code Enforcement Officer applied it properly and consistently. Discussion acknowledged that while alfalfa is not commonly planted in residential yards, testimony had been given by the appellant stating that the alfalfa was being grown to feed horses, thus supporting an agricultural purpose. The Board noted that although the method of cultivation might not align with standard agricultural practices, the intended purpose—animal feed—still meets the threshold for agricultural use under the ordinance. The Board discussed that beauty is subjective and code enforcement should be based on use, not appearance. A consensus appeared to form that the evidence and testimony support a conclusion that the planting of alfalfa qualifies as agricultural use. The deliberation concluded with an acknowledgment that while the city may continue to receive complaints from neighbors, the Board's duty is to interpret and apply the code based on intent and use, not public opinion or aesthetics.

Foster advised the Board that when making a motion, it should clearly state whether the motion is to uphold the Code Enforcement Officer's determination of a violation or to uphold the appellant's position, including a statement of reasons. This is necessary to draft a formal decision document, which the Chair will be required to sign at the next meeting. Beck clarified that no citation was issued to the appellant. Instead, a letter of violation was sent as a procedural step, informing the property owner of a potential violation, and providing an opportunity to correct the issue prior to formal enforcement. He said that such letters are standard practice in code enforcement—they serve as notice and an opportunity for compliance before escalating to citation.

Johnson raised a point of confusion: the letter of violation was addressed to Sarah Parisso, who was not present at the hearing. Kingsbury clarified that he and Ms. Parisso are co-owners of the property, and she was unable to attend due to work obligations. Her position was represented in the jointly signed written appeal submitted to the Board. Kingsbury confirmed that he is named on the deed and is a legal co-owner of the property.

Kennedy moved to uphold the appellants defense based on the code written as 5-8-11, section B-2, Plants grown for agricultural purposes or food production, which is considered a permitted plant. Price seconded the motion. Kennedy, yes; Johnson, no; Price, yes. The motion passed with a vote of 2-1.

Additional Comments and Legal Clarification

Beck thanked Kingsbury for his participation and informed all parties that if anyone disagrees with the Board's decision, an appeal may be submitted to the City Council in writing within 14 business days. Post-decision clarification was provided by Beck regarding zoning. Beck said that while today's decision addressed the weed ordinance only, staff noted that R1 zoning regulations prohibit agricultural uses. Although this issue was not part of the current violation notice, and thus not considered in this hearing, the city retains the authority to pursue future enforcement under zoning code if appropriate. Kingsbury was made aware of this distinction and potential for future zoning-related concerns, though no such action had yet been initiated.

Adjourned at 12:28 p.m.

**Respectfully Submitted,
Ann Peterson, Recording Secretary**



Board of Adjustment

July 14, 2025



IDAHO FALLS

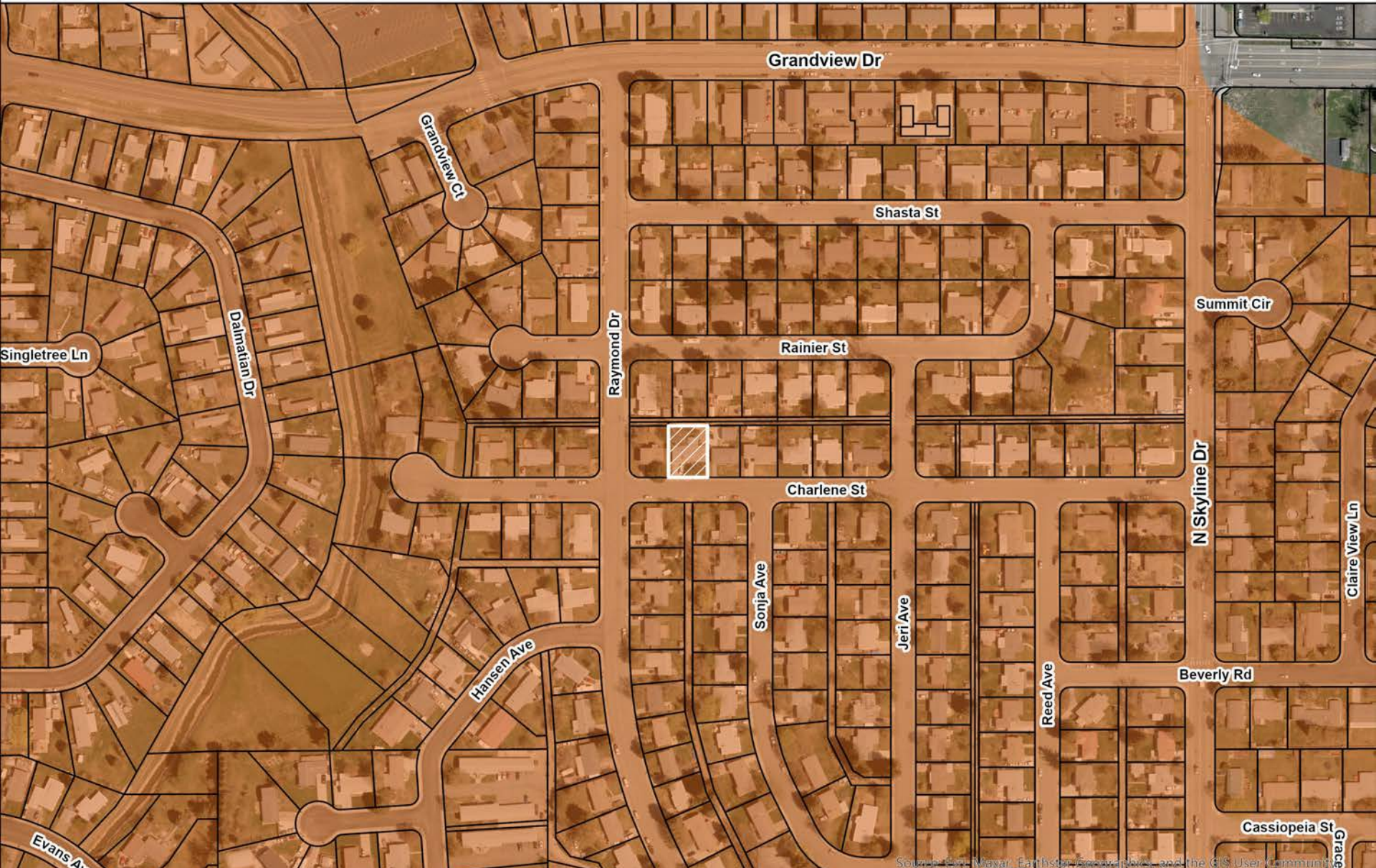
Call to Order

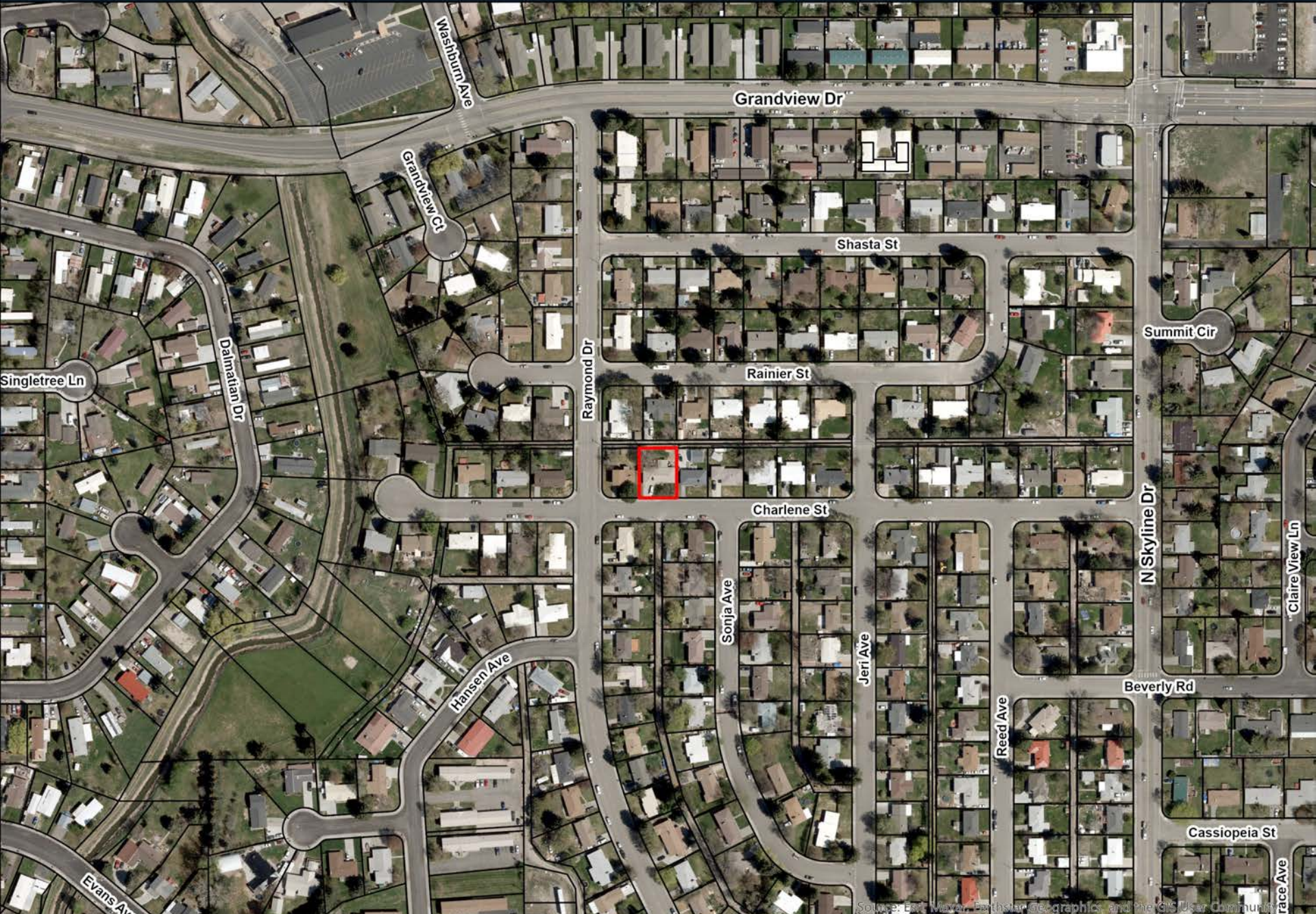
Zoning Violation Appeal

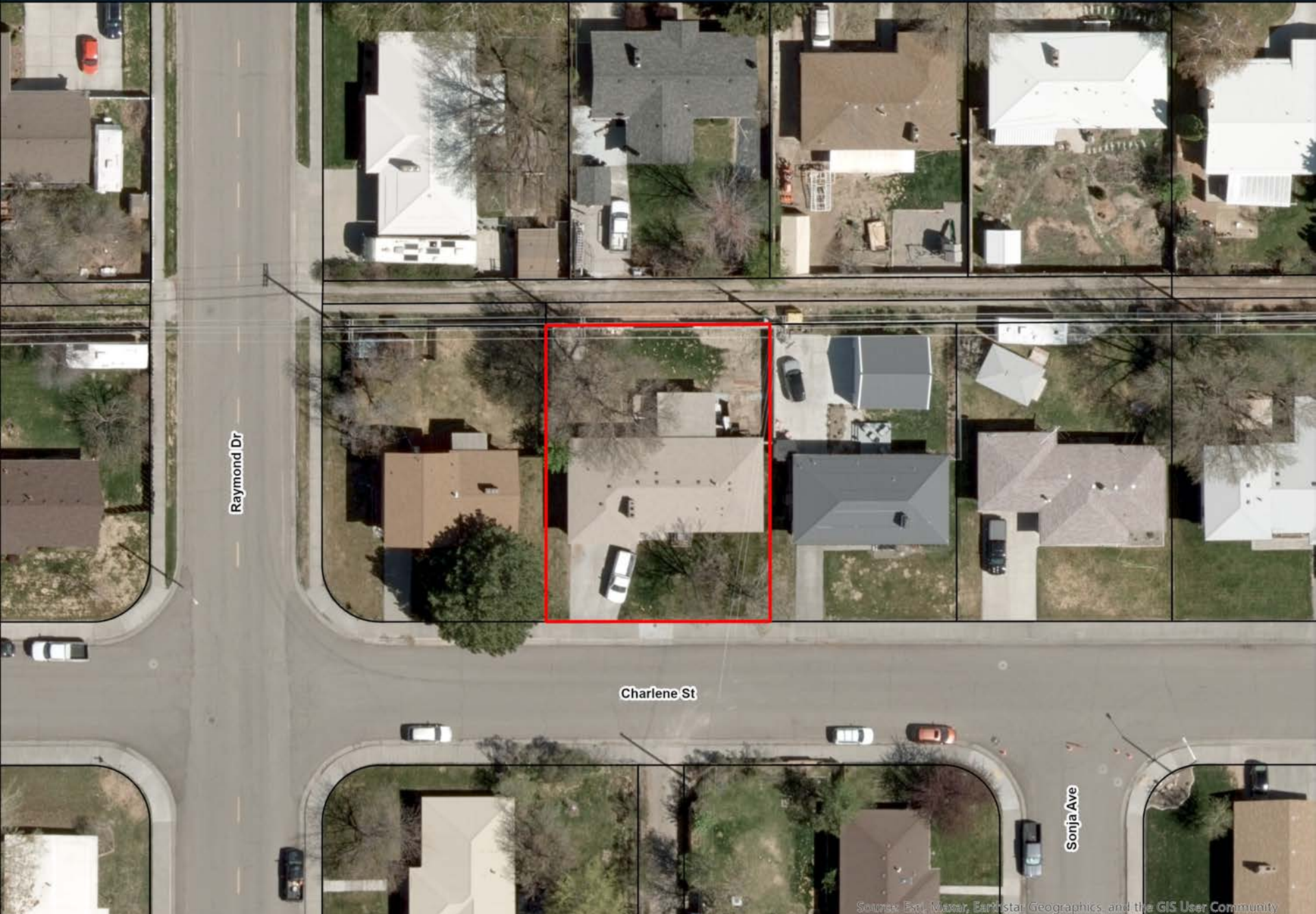
1798 Charlene St



- General Urban
- Mixed Use Centers and Corridors
- Special Use
- Urban Core
- Industrial
- Natural and Open Space
- Suburban







Raymond Dr

Charlene St

Sonja Ave

Inspection Photos June 13, 2025



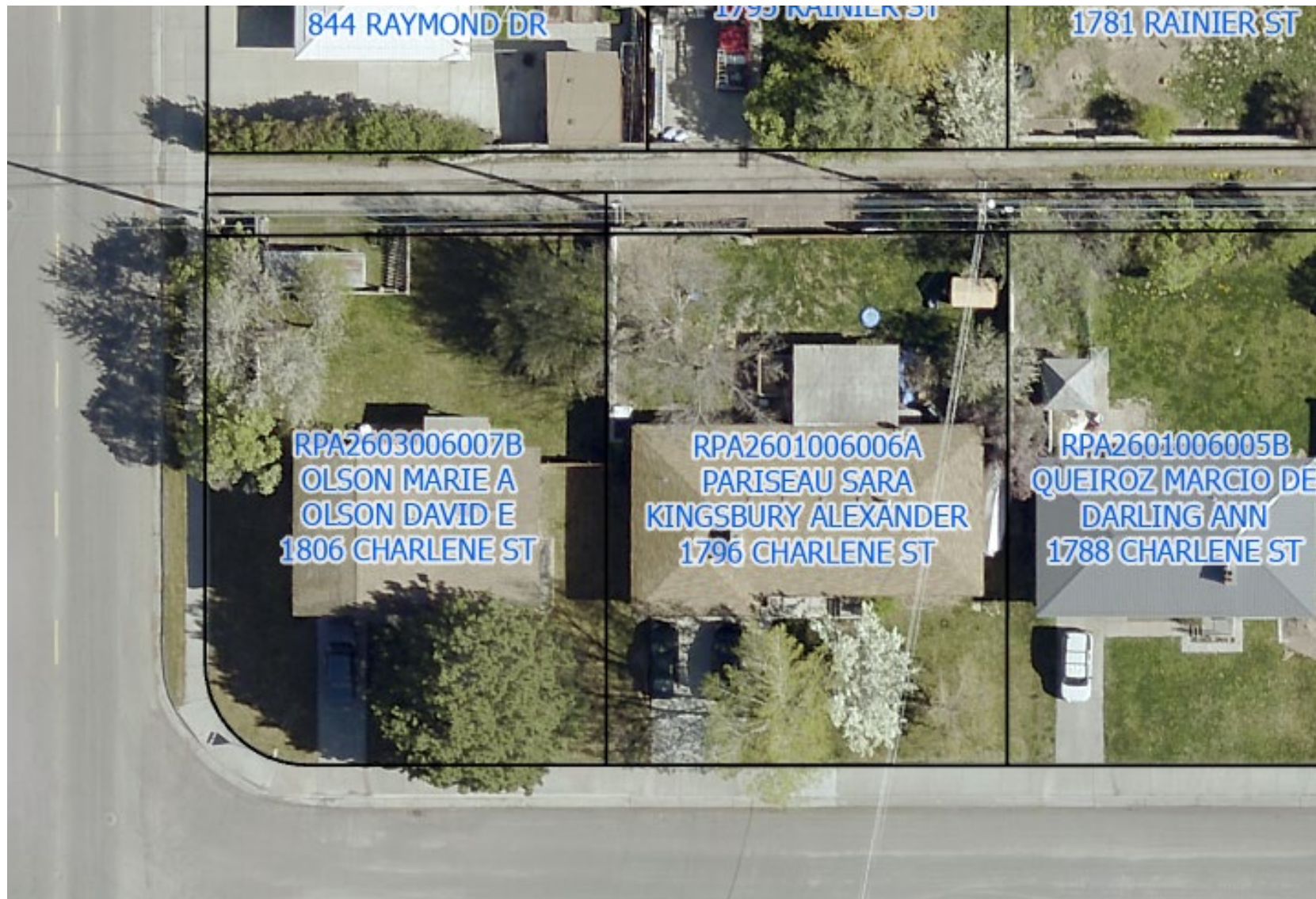
Inspection Photos June 13, 2025



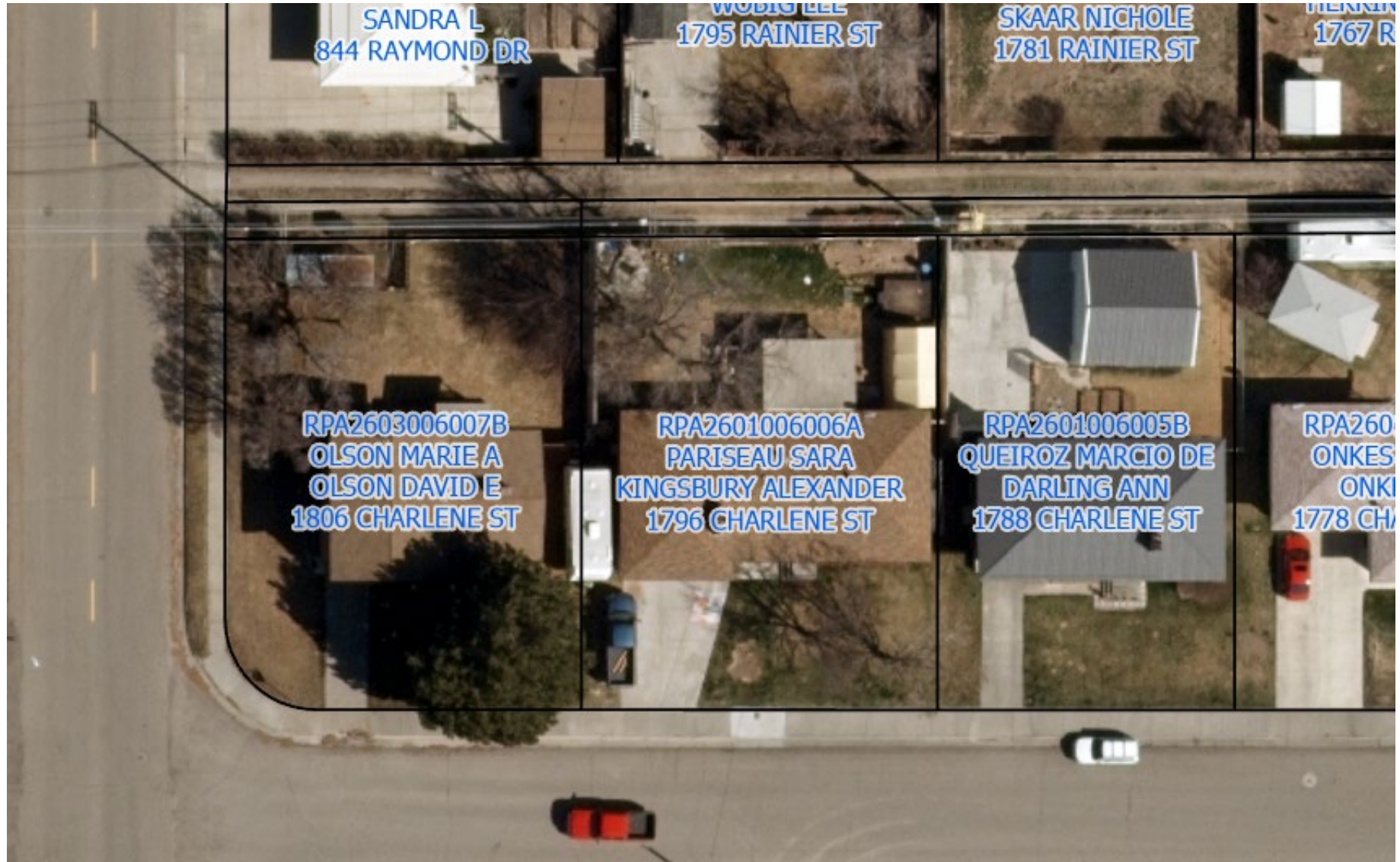
2015 Google Street Views



2016 Aerial City GIS



2020 Aerial City GIS



2023 Aerial City GIS



2025 Aerial City GIS



REASONED STATEMENT OF RELEVANT CRITERIA AND STANDARDS
AN APPEAL FROM THE ZONING ADMINISTRATOR TO OVERTURN THE
INTERPRETATION OF THE ZONING ORDINANCE AND WEED ORDINANCE, AT
1796 CHARLENE STREET.

WHEREAS, the applicant filed an application for the appeal on June 27, 2025; and

WHEREAS, this matter came before the Idaho Falls Board of Adjustment (the “Board”) during a duly noticed public meeting on July 14, 2025; and

WHEREAS, having reviewed the application, including all exhibits entered and having considered the issues presented:

I. RELEVANT CRITERIA AND STANDARDS

1. The Board considered the request pursuant to City of Idaho Falls (the “City”) Comprehensive Plan, the City’s Zoning Ordinance, the Local Land Use Planning Act, and the Right to Farm Act.
2. 1796 Charlene Street, Idaho Falls, Idaho (the “Property”) is currently zoned R1, Single Dwelling Residential, and has been for over 65 years.
3. The Planning and Zoning Department sent a violation letter to the occupants of the Property regarding a violation of the Section 11-2-3 of the Comprehensive Zoning Ordinance of Idaho Falls City on June 13, 2025.
4. On June 27, 2025, Alexander Kingsbury (the “Appellant”) applied for an appeal to the Board for its interpretation of the Zoning Ordinance.
5. In a previous appeal held on May 29, 2025, regarding an alleged violation of the City’s code that pertains to litter and weed control (the “Weed Ordinance”), the Appellant stated that he was growing alfalfa in his yard, and proclaimed that it is not a weed. The Appellant defended growing alfalfa instead of grass within his front yard, claiming that it is an ornamental plant and that he likes the look of alfalfa over turf grass. The Appellant additionally claimed he had an agriculture purpose for the alfalfa, which is another defense in the Weed Ordinance, in that he feeds the alfalfa to his horses that reside on a ranch off his Property.

The Board heard from both Code Enforcement and the Appellant on this matter. The Board did not agree with Appellant that the alfalfa was an ornamental grass. However, the Board determined that the growth of alfalfa to feed to animals was considered an agricultural purpose according to the way the Weed Ordinance is written and, on that basis, overturned the weed violation. Wherein the letter of violation solely focused on whether the Property violated the Weed Ordinance, the Board was advised to solely focus on a possible Weed Ordinance violation. The Appellant was advised that possible other violations may exist from using one’s yard for agricultural purposes in an R1 zone – but for the purposes of that May 29, 2025 hearing the R1 zone criteria was not addressed by the Board.

6. Shortly following the May 29, 2025 hearing, the City sent a letter of violation to the owners of the Property, indicating that the Property was in violation of the City’s Zoning Ordinance because of the agricultural use that was taking place in an R1 zone.
7. On July 14, 2025, the Appellant claimed that the growth of alfalfa on his property is protected under the Right to Farm Act and that the Right to Farm Act supersedes local ordinances. The Appellant also conceded that he omitted references to the Right to Farm Act because he did not believe that those

omitted sections pertained to his case. However, when reviewing the entirety of the Right to Farm Act, the Right to Farm Act specifically protects *existing* agricultural operations from becoming a nuisance when urbanization and other nonagricultural activities develop around *already existing farmland*. City Staff demonstrated that Appellant's Property has been subdivided, zoned, and developed as residential for the past 67 years. The Right to Farm Act protects existing farmland as it becomes encroached by urban areas. The Act does not provide a means for a property owner to transform a developed, and long established, residential neighborhood into farmland.

8. The Board determined that the agricultural use of growing alfalfa in R1 is a clear violation of Section 5-8-11 of the City Zoning Ordinance and unanimously voted to deny the Appellant's appeal. The Board came to this decision for the following reasons:
 - a. The Right to Farm Act protects existing rural farmland and agricultural operations from new and encroaching urban areas with nonagricultural uses.
 - b. The Right to Farm Act does not apply in this instance because the Property was already within a long-established residential zone that has had no agricultural activity for approximately sixty-seven (67) years. In addition, this residential zone is completely surrounded by urbanized development. Because the Property is not an existing agriculture operation threatened by urbanization, the Right to Farm Act does not apply.
 - c. All of the houses surrounding the Property are in compliance with the Zoning Code and consist of residential lots. To allow the Property to conduct agricultural activity within its front lawn, in violation of the Zoning Code, unfairly and unlawfully burdens other law abiding property owners.
 - d. Pursuant to the Zoning Code Table 11-2-1, an R1 zone cannot have an agricultural use. The Property has been in a residential zone for many years. The only residential zone that permits agricultural uses is the Residential Estate (RE) zone. The RE Zone permits limits "limited agricultural uses." Zoning Code 11-3-3(A). Even in the RE Zone, agricultural uses are "limited for the purpose of providing family food and for the use of those *residing on the premises*. . . ." Zoning Code 11-2-6(D) (emphasis added). The Appellant, however, is growing alfalfa that he transports from the premises. Even if Appellant's property was zoned in the RE Zone, Appellant's use is not consistent with the "on premises" use requirement.
 - e. The Board recognizes that "main" or "primary" uses generally authorizes uses that are considered an integral part of the "primary" use. *See Primary and accessory uses*, 8 MCQUILLIN MUN. CORP. § 25:154 (3d ed.). Such integral, but subordinate, uses are sometimes referred to as an "accessory" uses. *Id.* The City's Zoning Code also recognizes accessory uses. Zoning Code 11-7-1 ("Accessory Use - A use that is incidental and subordinate to the principal use, conducted upon the same property. The accessory use must be a permitted use in the designated zoning."). The Appellant argues that the Zoning Administrator's interpretation of the Zoning Code that his alfalfa field is a prohibited agricultural use ignores the fact that many residential properties have gardens. The Zoning Administrator's interpretation, the Appellant posits, would render the Zoning Code absurd as it would make every garden within the City illegal.
 - f. While the Board agrees with Appellant that gardening is an accessory use that is incidental and consistent with residential uses, in this case, Appellant's activity far exceeds beyond mere gardening. Appellant has converted the entire front portion of the Property into an alfalfa field. The Appellant has gone as far as to remove mature trees and all other vegetation in order to

¹The Board does not interpret it the Zoning Code 11-2-6(D) the same as the staff report and finds that the "limited agricultural uses" is specific to a use that promotes the main residential use of the property. Nevertheless, as explained in paragraph 8.d. of this Reasoned Statement, such uses are only permissible within RE zones.

more efficiently use the property as an agricultural operation. These material changes to the property are inconsistent with the other residential uses present within the R1 Zone.

Rather than a simple, individual-accessory use garden, where the garden's products would be used to support the residential uses on the property itself, Appellant harvests the alfalfa and transports the harvest to support his off-site horse husbandry. This off-site purpose erodes against Appellant's argument that the alfalfa agricultural operation is an accessory garden use. The alfalfa is clearly not supporting the residential use of the Property. In other words, the line between a permitted accessory garden use and a prohibited agricultural operation is whether the produce is incidentally *supporting the primary use of the Property as a residence*. As the Appellant's use of the Property does not promote or support the allowed residential uses permitted under the R1 zone, the Board agrees with the Zoning Administrator's interpretation that the City's Zoning Code prohibition against agricultural uses within R1 zones prohibits Appellant's alfalfa agricultural operation.

II. DECISION

Based on the above Reasoned Statement of Relevant Criteria, the Board of Adjustment of the City of Idaho Falls upholds the violation as presented.

PASSED BY BOARD OF ADJUSTMENT OF THE CITY OF IDAHO FALLS

THIS 13 DAY OF August, 2025

A handwritten signature in black ink, appearing to read 'Nathan Kennedy', is written over a horizontal line.

Nathan Kennedy – Chair

Pursuant to Zoning Code 11-6-4(C), the Appellant, and other owner(s) of the Property, may appeal this decision of the Board by filing a written notice of appeal with the City Council within fourteen (14) days of the date of this written decision. The written notice of appeal shall be first filed with the Zoning Administrator and shall set forth objections to the decision made by the Board. The Zoning Administrator will then forward the notice of appeal to the City Council, along with this written decision made by the Board.

List of Achievements/Concerns

Institution Name: Idaho Falls Zoo

Inspection Dates: 6-18 to 6-20-2025

PART I

Points of Particular Achievement

INSTITUTION DIRECTOR: During the inspection the Visiting Committee was particularly impressed with the items listed below, which are especially well done and of notable mention.

The Maintenance Department has demonstrated significant progress in completing work orders and other maintenance requests in a timely manner. The team has been actively utilizing Maintenx software and has shown consistency in addressing ongoing work projects. Staff speaks highly of the maintenance team and their responsiveness.

The Education Department is currently collaborating with three externs who have effectively engaged guests through surveys to inform future programming. Additionally, the zoo has partnered with a Ph.D. evaluator to assist in the development of these surveys. These efforts demonstrate their commitment to meeting the needs of guests and future programming.

The inspection team found the zoo's grounds and horticulture to be in excellent condition, with ample shade available for guest comfort throughout the walking areas. Walking around IFZ is an exceptional outdoor experience.

The recent acquisition of a new Administration Building has significantly enhanced operational functionality. This addition has increased office space for staff, created a spacious area for employee breaks and meetings, and provided each keeper with a designated workspace, including a personal computer station.

The weekly Animal Welfare Meeting is a commendable practice that highlights the facility's commitment to animal well-being. It creates open communication and collaboration between the Animal Care and Veterinary Teams.

The "Quarters for Conservation" program—provides a dedicated funding source to both local and international conservation projects, particularly for an institution of this size.

Everyone that the inspection team spoke to during the inspection are extremely and supportive of the IFZ. This energy shows across all departments from leadership to frontline, and volunteers.

PART II:

Items of Concern

INSTITUTION DIRECTOR: •IMPORTANT• The items listed below were of noted concern during the inspection. Please address as many of these concerns as possible prior to the Commission's meeting. For items that are still in progress at the time of the hearing, please provide documentation and a timeline for completion. [NOTE: any concerns that remain unaddressed from a previous inspection are considered extremely serious, and may affect the outcome of this process.] Having proper documentation is essential to meeting these standards; lack of documentation must be considered as not being in compliance (*for example*, having determined that collectors have the necessary permits, but having no documentation of this). Also, please note that it is possible that, after reviewing all supporting materials (including the Visiting Committee's written report), the Commission may have issues or concerns that are not listed below. If so, these will be discussed at the hearing.

A written report to the Commission on how you are responding to the concerns listed below must be submitted by the established deadline (usually six-seven weeks before the hearing—check with AZA if uncertain of the date). The written report is for informational purposes only. At the hearing, the Commission will ask for a verbal update on additional progress made *after* the written report was submitted.

CONCERNS REMAINING FROM PREVIOUS INSPECTION

In the previous report, the zoo dumped and filled its two aquatic exhibits (otters and penguins) every 2 weeks, and was not conducting water quality testing. Since then they have completed the installation of the two systems. The filtration for the indoor

penguin pool is in place but not yet operational. The otter filtration system is on line. In addition coli-form testing is occurring in both systems. [1.5.9]

The alibaba tortoises were sited a major concern as the overwintering building was too small. Since the last report one of the animals has passed. The remaining animal is still in this habitat. He is slated to move to a new building (currently under construction) in the fall of 2025. [1.5.2, 1.5.2.2]

MAJOR CONCERNS FROM CURRENT INSPECTION

Due to the size of the collection in the primate building, rotating primates through the various spaces is challenging especially in the winter. Currently, primates are only cycled around every two to three days (including the outdoor habitat) A detailed collection plan review should be completed for all primates. [1.5.2, 1.5.2.2]

The contract veterinarian visits this zoo once weekly. The zoo's veterinarian appears responsive to animal health concerns but the current contract time commitment of one day a week and 24/7 on call appears insufficient to provide veterinary care for the zoo's current animal collection. Current contract is set to expire July, 19, 2025. Additional coverage should be considered in the contract renewal. The inspection team identified times where there appears to be insufficient timely direct access to veterinary care. Both the contract and relief veterinarians have commitments with their primary clinics which can delay response to the Zoo. Out of town and relief veterinarian coverage needs to be more formal with communication to all prior to leaving town. A direct example was a case of a recumbent zebra emergency in which the contract veterinarian was out of town and the zoo had difficulty finding an available veterinarian, with the response time of 3 hours for a veterinarian on property. [2.0.1, 2.1.1, 2.1.2, 2.1.4, 2.1.5]

LESSER CONCERNS FROM CURRENT INSPECTION

The flamingo barn has been completed, however the current lighting is not adequate. The barn at this time is significantly dark for animals that might spend a prolonged amount of time inside during periods of low temperatures. [10.3.1]

The river otters spend significant time in the indoor enclosure due to the male otter's propensity to escape his outdoor habitat. The inspection team learned that there is potential for habitat modifications that would allow the otters to have overnight access. [11.3.1]

The institution has written plans for training and enrichment. However, both plans lack structure and substance and do not meet modern zoological practices. [1.6.1, 1.6.4]

Current animal staff levels are taking care of the collection, but not to the level of where they could be. A future position for next year's budget has been proposed as well as a current open position. This increase in two keepers would advance the level of animal care. [7.3]

While there is a written maintenance plan, this plan does not provide a schedule for addressing replacement for the various capital items around the Zoo. This schedule should include a 5 year time table for completion with anticipated costs. [10.1.3]

According to AMDUCA, dispensed medications for animals were not dispensed according to regulations as they were dispensed as entire manufacturer made bottles and were lacking a prescription label with necessary information (dose, animal identification, prescribing veterinarian, etc.). Prescription instruction sheets were also lacking some information (i.e. prescribing veterinarian, etc). [2.2.1, 2.2.2]

The zoo lacks veterinary equipment, such as a large animal anesthesia machine or Mega-vertebrate Demand Ventilator, to provide inhalant anesthesia and/or ventilatory capability for large-bodied animals (zebra, lions, bears, camels, etc). This equipment will improve their ability to perform safe and effective anesthesia on these species which have challenged the facility at times. [2.3.2]

Drugs currently listed as protocols for animal escape emergencies (Ex: concentrated medetomidine and etorphine) were not currently present on zoo grounds which would hinder the zoo's ability to respond to escapes of a large dangerous species. [2.2.1, 2.2.3]



Board of Directors Meeting Minutes

July 8, 2025 | 9:00am | Willard Arts Center

Board of Directors Attendees: Brandi Newton, Chip Langerak, Lisa Farris, Jill Hansen, Kevin Cutler, Matt Jacobsen, Caitlin Long, Sid Page and Greg Crocket | **IFDDC Staff:** Kerry Hammon and Juan Hernandez | **Guests:** None

Topics Discussed:

- Chip Langerak: Officially announce Kerry Hammon as our new Executive Director.
- Chip Langerak: Reviewed May 13, 2025, meeting minutes. (June's Board meeting was canceled) Matt motioned to approve and Kevin seconded. No apposed.
- Brandi Newton: Financial Report. We still have \$11K in the budget to do some parking lot upgrades. Positive cash balance. Brandi motioned to approve, and Sid seconded. No apposed.
- Director's report:
 - Flowering Beautification project: Sponsorships: 57 wreaths, 73 of the 100 baskets, 19 of the 109 flowerpots, totaling \$12K.
 - Full-time operations management position filled. Start date mid-August.
 - Website upgrades should be completed in August.
 - Proposed 2026 event dates scheduled. Summer Brew removed due to low attendance. New pub crawl added in Dec.
 - Parking update: City Council Work Session parking presentation July 28. Pilot Program Phase I: Broadway north to D Street but not including D Street. Phase II: South of Broadway after water tower & library lot construction complete. Proposed rates reviewed but require City Council approval.
 - Lisa Farris: Grants: Just over \$68K for 2023/2024 funds. Matt is getting quotes for an awning for Park & A Italia and a sign for SnakeBite. C21 High Desert Realty is looking into a privacy screen. Most, if not all, the remaining funds in the 2023/2024 CDBG grants will be used for the smaller of the two shade sails for the Broadway Plaza. The completion of the larger shade sail depends on available CDBG funding in 2025 and will require more funds.

- Caitlin Long – National level of funding budget for 2025 was just released. The Historical Preservation budget is facing some challenging times with the new bill that was just passed on July 4th.

The meeting was adjourned at 10:50 a.m. The next board meeting will be Tuesday, August 12th, 2025, at 9:00 a.m. at the Willard Arts Center.