IDAPA 38 - DEPARTMENT OF ADMINISTRATION

38.04.07 - RULES GOVERNING USE OF THE INTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

DOCKET NO. 38-0407-1201

NOTICE OF RULEMAKING - ADOPTION OF TEMPORARY RULE

EFFECTIVE DATE: The effective date of the temporary rule is April 19, 2012.

AUTHORITY: In compliance with Sections 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule. The action is authorized pursuant to Section 67-5709, Idaho Code.

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

These rules establish a new chapter governing public use of the interior of state facilities within the capitol mall, multi-agency facilities managed by the Department of Administration, and state facilities included at the request of the public entity owing or occupying the facility. The requirements for use of the facilities will protect persons and property at the facilities.

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

House Bill No. 693, passed by the 2012 Idaho Legislature, provides authority for the Director of the Department of Administration to promulgate rules governing use of the facilities governed by these rules. The Bill directed that the rules be promulgated within thirty (30) days of the Bill's effective date.

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

PUBLIC COMMENT: Although not required by law, the Department of Administration will accept written public comment for the purpose of developing proposed rules at the address set forth below through 5:00 p.m. on Friday, June 1, 2012.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the temporary rule, contact Teresa Luna, Director, at (208)332-1827.

DATED this 19th day of April, 2012.

Teresa Luna
Director
Department of Administration
650 W. State St.
P. O. Box 83720
Boise, ID 83720-0013
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THE FOLLOWING IS THE TEXT OF THE TEMPORARY RULE FOR DOCKET NO. 38-0407-1201

IDAPA 38
TITLE 04
CHAPTER 07

38.04.07 - RULES GOVERNING USE OF THE INTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

000. LEGAL AUTHORITY.
Section 67-5709, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing the Capitol Mall Properties and other state facilities. (4-19-12)T

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 38.04.07, "Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities." (4-19-12)T

02. Scope. These rules contain the provisions for use of the interior of the Capitol Mall Properties, the Other State Properties, and the Multi-agency Facilities. The interiors of such facilities occupied by a tenant under lease may be subject to additional requirements imposed by the tenant. Rules governing the exterior of the Capitol Mall Properties, the Other State Properties, and the Multi-agency Facilities are codified under IDAPA 38.04.06, "Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities." Rules governing the use of the exterior of the Idaho State Capitol are codified under IDAPA 38.04.08, "Rules Governing Use of Idaho State Capitol Exterior." Rules governing parking are codified under IDAPA 38.04.04, "Capitol Mall Parking Rules." (4-19-12)T

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements that pertain to the interpretation of the rules of this chapter, or to compliance with the rules of this chapter. Any such documents are available for public inspection and copying at cost at the Department's office. (4-19-12)T

003. ADMINISTRATIVE APPEALS.
These rules do not provide for appeals of the requirements for use of the Interior State Facilities. (4-19-12)T

004. INCORPORATION BY REFERENCE.
There are no documents that have been incorporated by reference into these rules. (4-19-12)T

005. OFFICE -- OFFICE HOURS -- MAILING AND STREET ADDRESS.

01. Office Hours. The Department is open from 8:00 a.m. to 5:00 p.m. except Saturday, Sunday, and legal holidays. (4-19-12)T

02. Mailing Address. The Department's mailing address is P.O. Box 83720, Boise, Idaho 83720-0013. (4-19-12)T

03. Street Address. The Department's principal place of business is located at 650 West State Street, Boise, Idaho 83702-5972. (4-19-12)T

04. Website Address. The Department's website address is http://adm.idaho.gov/. (4-19-12)T

006. PUBLIC RECORDS ACT COMPLIANCE.
All records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (4-19-12)T

007. SEVERABILITY.
Pursuant to IDAPA 44.01.01, "Rules of the Office of the Administrative Rules Coordinator," all administrative rules in Idaho are presumed severable unless specifically provided to the contrary. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion. (4-19-12)T

008. -- 099. (RESERVED)

100. DEFINITIONS.

01. Capitol Mall Properties. The interior of buildings and improvements set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Properties do not include the Idaho State Capitol. (4-19-12)T

02. Common Space. The portion of the Interior State Facility that is not Tenant Space. Common Space includes but is not limited to interior lobbies not within Tennant Space and restrooms not accessed through Tennant Space. Common Space does not include Tenant Space or any area marked "private," "no admission," "staff only" or similarly designated as not open to the public. (4-19-12)T

03. Department. The Department of Administration. (4-19-12)T

04. Director. The Director of the Department of Administration or his designee. (4-19-12)T

05. Interior State Facilities. The interior spaces within the Capitol Mall Properties, the Multi-agency Facilities, and the Other State Properties. (4-19-12)T

06. Multi-Agency Facilities. The interior of buildings and improvements set forth in Section 102 of these rules. (4-19-12)T

07. Other State Properties. The interior of buildings and improvements set forth in Section 101 of these rules. (4-19-12)T

08. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (4-19-12)T

09. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (4-19-12)T

10. Tenant Space. The portion of the Interior State Facilities occupied by a state of Idaho officer, official, agency, board or commission or leased to a public agency or a private individual or entity. (4-19-12)T

101. (RESERVED)

102. MULTI-AGENCY FACILITIES.
These rules shall apply to the following Multi-agency Facilities managed and administered by the Department: (4-19-12)T

01. Lewiston State Office Building. Lewiston State Office Building, 1118 F Street, Lewiston, Idaho 83501. (4-19-12)T

02. Idaho Falls State Office Building. Idaho Falls State Office Building, 150 Shoup Avenue, Idaho Falls, Idaho 83401. (4-19-12)T

103. -- 199. (RESERVED)

200. USE OF INTERIOR STATE FACILITIES.

01. Authorized Uses by the Public. Public access to the Interior State Facilities is limited to the conduct of business with a tenant. Public access to the Tenant Space is limited to the conduct of business with the tenant. (4-19-12)T

02. Prohibited Uses. The following uses are prohibited at the Interior State Facilities: (4-19-12)T

a. Events. The Interior State Facilities shall not be used by the public for press conferences, performances, ceremonies, presentations, meetings, rallies, receptions or gatherings. (4-19-12)T

b. Exhibits. The Interior State Facilities shall not be used by the public for attended or unattended displays, including but not limited to equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (4-19-12)T

c. Commercial Activity. The Common Space shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service in the Common Space. (4-19-12)T

d. Camping. Pursuant to Section 67-1613, Idaho Code, camping is prohibited at the Interior State Facilities. Camping includes use of the Interior State Facilities for living accommodation purposes such as sleeping, making preparations for sleeping, cooking, storing personal belongings, and using a tent or other shelter for sleeping. (4-19-12)T

201. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.
Except as otherwise provided, the restrictions and limitations on use of the Interior State Facilities set forth in Sections 301 through 399 of these rules shall apply to all use of the Interior State Facilities. (4-19-12)T

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference With Primary Use of Facility or Real Property. No person shall interfere with the primary use of the Interior State Facilities. The primary uses of the Interior State Facilities include but are not limited to public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use Interior State Facilities and the conduct of business by a tenant of a state facility. (4-19-12)T

02. Interference With Access. No person shall block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the Interior State Facilities. (4-19-12)T

302. HOURS AND LOCATIONS OF USE.
The hours for public access to the Interior State Facilities are 8:00 a.m. to 5:00 p.m. on State Business Days. (4-19-12)T

303. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.
Bicycles, skates, skateboards, scooters, and other non-motorized transportation may not be used in the Interior State Facilities. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising a state facility, users must store non-motorized transportation in a designated storage area on the exterior of a state facility. Child strollers and wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this Section. (4-19-12)T

304. ANIMALS.
Animals are not allowed at the Interior State Facilities unless the animal is a service animal necessary to assist persons with disabilities or an animal in the service of law enforcement. Service animals must be leashed and under the control of the person bringing the animal to the Interior State Facilities. The person bringing the animal to the Interior State Facilities shall have in his possession the equipment necessary to remove the animal's urine and fecal matter and shall immediately remove all urine and fecal matter deposited by the animal. (4-19-12)T

305. FOOD AND BEVERAGES.
Consumption of food and beverages at the Interior State Facilities is subject to the following: (4-19-12)T

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the Interior State Facilities. (4-19-12)T

02. Alcohol. Alcohol may not be consumed or distributed in the Common Space. (4-19-12)T

306. SMOKING.
Smoking is not allowed in the Interior State Facilities. (4-19-12)T

307. FIRES, CANDLES, AND FLAMES.
No fires, candles or other sources of open flame are permitted in the Interior State Facilities. (4-19-12)T

308. LIMITS ON USE OF COMMON SPACE.
The following provisions apply to the Common Space. (4-19-12)T

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (4-19-12)T

02. Railings and Stairways. No items may be placed on railings or stairways and no persons shall sit or stand on railings or stairways. (4-19-12)T

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of a facility to another level or to the ground. (4-19-12)T

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the Interior State Facilities, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. (4-19-12)T

05. Attaching, Affixing, Leaning or Propping Materials. Posters, placards, banners, signs, and displays, including any printed materials, shall not be affixed on any interior surface of the Common Space not designed for that purpose. No items may be leaned or propped against any interior surface of the Common Space. (4-19-12)T

06. Materials Causing Damage to Interior Surface. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface in the Common Space or any systems or utilities of the Interior State Facilities, including but not limited to fire suppression systems, drains, ventilation systems, and lighting systems. (4-19-12)T

309. ITEMS SUBJECT TO SEARCH.
To enhance security and public safety, Security Personnel may inspect: (4-19-12)T

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (4-19-12)T

02. Items. Items brought to the Interior State Facilities, if there is a reasonable suspicion that an item may be capable of destructive or disruptive uses at the Interior State Facilities. (4-19-12)T

310. PROHIBITED ITEMS.
Explosives, missiles, chemicals or other incendiary devices are not permitted in the Interior State Facilities. Security Personnel or law enforcement may direct that any person at the Interior State Facilities immediately remove any club, bat or other item that can be used as a weapon from the Interior State Facilities. (4-19-12)T

311. UTILITY SERVICE.
The public may not use the utility services of the Interior State Facilities. (4-19-12)T

312. LAW ENFORCEMENT AND FACILITY EXIGENCY.
In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state employees or officials may direct all persons out of the Interior State Facilities and delay or postpone any activity until the emergency or threat is abated. (4-19-12)T

313. COMPLIANCE WITH LAW.
All use of the Interior State Facilities shall comply with applicable law, including but not limited to fire and safety codes. (4-19-12)T

314. MAINTENANCE OF INTERIOR STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the Interior State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles. (4-19-12)T

02. Items Return to Proper Location. Users shall return all items, including but not limited to movable furniture and trash receptacles to their location at the conclusion of use. (4-19-12)T

315. – 999. (RESERVED)