

AGENDA ITEM SUMMARY

DATE: 6-17-2013 **DEPARTMENT:** CDD **DEPT. HEAD SIGNATURE:** MA

SUBJECT: Conduct public hearing and consider amending Sections 1.2, 3.1.1.1, 3.4.1, and 4.5.5 of the Subdivision Ordinance and amending Articles 2, 4.12.3.4, & 6A.5B of the Zoning Ordinance to allow for Interior Lots.

AUTHORITY: ID Code 39-4116 IAR _____ City Ordinance/Code Zoning Ordinance No. 532 and Subdivision Ordinance 821.
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The proposed applicant initiated text amendment provides for the division of commercial real property within existing buildings or within future building planned for zero lot lines, similar to establishing a residential townhouse. Currently, the only option for dividing commercial property within a shared structure is a condominium division, which provides limited funding options for prospective owners. This applicant initiated text amendment provides for the definition of Interior Lots, which are similar in definition to a townhouse, as well as the structure for planning Interior Lots. The amendment proposes Interior Lots for the SCI-I zone only.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:

None

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IFAPPLICABLE)

- | | | |
|--------------------------------------------------------|------------------------------------------------------|---------------------------------------------|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input checked="" type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input type="checkbox"/> City Clerk | <input checked="" type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input checked="" type="checkbox"/> Building | <input type="checkbox"/> Police | <input type="checkbox"/> Sustainability |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Fire Dept. | Parks | <input type="checkbox"/> _____ |
| | <input checked="" type="checkbox"/> P & Z Commission | |
-

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Hold public hearing and if the Council approves the amendment, proceed with the first reading of Ordinance No. _____.

ACTION OF THE CITY COUNCIL:

Date : _____
City Clerk _____

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record *Additional/Exceptional Originals to:

Copies (all info.): _____ Copies (AIS only)
Instrument # _____

STAFF REPORT

TO: Hailey City Council

FROM: Micah Austin, Community Development Director

RE: Zoning and Subdivision Ordinance proposed amendments pertaining to the Service Commercial Industrial (SCI-I) Zoning District.

HEARING: June 17, 2013

Notice

Notice for the public hearing before the Planning and Zoning Commission was published in the Idaho Mountain Express on April 24, 2013 and mailed to public agencies and area media on April 26, 2013.

Notice for the public hearing before the City Council was published in the Idaho Mountain Express on May 29, 2013 and mailed to public agencies and area media on May 28, 2013.

Proposal

The proposed applicant initiated text amendment provides for the division of commercial real property within existing buildings or within future building planned for zero lot lines, similar to establishing a residential townhouse. Currently, the only option for dividing commercial property within a shared structure is a condominium division, which provides limited funding options for prospective owners. This applicant initiated text amendment provides for the definition of Interior Lots, which are similar in definition to a townhouse, as well as the structure for planning Interior Lots. The amendment proposes Interior Lots for the SCI-I zone only.

A text amendment application was submitted by Portage Bay Partners proposing amendments to Hailey's Zoning and Subdivision Ordinances. The amendments would modify regulations in the Service Commercial Industrial (SCI-I) Zoning District, specifically:

1. Allowing for the subdivision of lots to create interior lots with a minimum lot size of 162 sq. ft. or the area of a city defined parking stall, whichever is less, and tenancy in common lots,
2. Adding definitions for interior lots and tenancy in common lots,
3. Providing for the submittal of a cross-easement agreement, a tenancy in common agreement, association declaration, and a party wall agreement in a subdivision and or design review application; and
4. Modifying the access provisions in the subdivision ordinance for interior lots.

Objectives of the applicant include providing more feasibility and options for financial institutions providing real estate financing, backing, and support; enabling buyers and sellers, and stimulating the local economy. Put another way, the amendments propose to enable/allow divisions of real property ownership which financial institutions will likely view favorably when determining whether to lend monies to developers.

The proposed amendment language is incorporated into this staff report by reference, and is

attached at the end of it as Exhibit A.

Procedural History

The Planning and Zoning Commission considered the text amendment on May 13, 2013. Following the public hearing, the Planning and Zoning Commission voted unanimously to recommend approval of the amendment to the City Council.

The City Council held a public hearing to consider the text amendment and the Planning and Zoning Commission's recommendation on June 10, 2013.

Planning and Zoning Recommendation

On May 13, the Planning and Zoning Commission voted unanimously to recommend the proposed applicant initiated text amendment to the City Council for approval. The Commission based this recommendation on the following standards:

1. The amendments are in accordance with the Comprehensive Plan (5.1, 6.2, 7.1)
2. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services
3. The proposed uses are compatible with the surrounding area
4. The proposed amendment will promote the public health, safety and general welfare.

The Planning and Zoning Commission made no substantive revisions to the proposed ordinance and only one minor change was made the numbering of required submittal items for Design Review applications. Specifically, item 9 in the proposed amendment was moved to item 11 and renamed. This required reads, "Other information as required by the Administrator, Hearing Examiner, or the Commission.

Since the public hearing on May 13, the applicant for this text amendment has proposed the following revisions to the City Council to clarify the language and intent of allowing for Interior Lots. If the Council chooses to incorporate this language, the proposed ordinance will be revised accordingly:

1. Revision to the Subdivision Ordinance proposal:
 - a. Amend the last sentence of 3.1.1.1 of the proposed Subdivision Ordinance amendment to read:
 - "A party wall agreement if the Developer intends to create one or more Interior Lots that have adjoining building lot lines."
 - b. Amend the end of paragraph iv of 4.12.3.4 of the Zoning Ordinance amendment to read:
 - "Interior Lots, or a combination of Interior Lots, created with interior lot lines shall adhere to the Bulk Requirements of the principle Lot they are located within and shall not be used to establish a separate "Lot" as defined herein."

- c. Amend the beginning of paragraph vi of 4.12.3.4 of the Zoning Ordinance amendment to read:
- “The layout of interior lines and Interior Lots shall generally conform to the uses set forth in the applicant’s Design Review approval, not precluding interior lines running directly from the defined use to the Principle Lot’s boundary lines. Interior Lots may create stand-alone lots, lots with stand-alone buildings, or lots with buildings that have a portion that is adjoined to other buildings at interior lot lines. Where interior lots create buildings that are adjoining at lot lines, a party wall agreement shall be made between effected parties.”

Department Comments

The amendments were initiated based on objectives for providing more feasibility and options for financial institutions providing real estate financing, backing, and support and more options for borrowers seeking these services. To put another way, banks are less likely to provide financing for condominiums as they are for stand-alone structures and townhomes. This text amendment allows for property division similar to a townhome, only for a commercial lot. The term that was chosen for this property division was Interior Lot, which provides for individual ownership of real estate with zero lot line setbacks on the interior of the structure. The City of Hailey already allows for zero lot line setbacks in the Business District, thereby allowing for this type of ownership in the downtown area. The main difference is that in the SCI-I zone, the setbacks for the primary building will still apply but the provision for Interior Lots allows for property division within a structure. This does not change the bulk requirements for the Lot where the principle building is located.

The attached text amendment language was evaluated and adjusted by Ketchum Real Estate Attorney Robert Korb prior to its submittal.

Standards of Evaluation

Note: Standards are in bold print and staff analysis is in lighter type,

ZONING ORDINANCE STANDARDS

14.2 Initiation of Amendment.

Text amendments may be initiated by City Staff, adoption of a motion by the Commission or the Council, or by the filing of an application with the Administrator.
Applicant filed a text amendment application with the city.

14.3.1 Applications for text amendments shall contain the following information:

- a. Name, address, and phone number of applicant.**
Application contains applicant Portage Bay Partners’ name, address, and phone number.

b. Proposed amendment and summary of the specific objective of any proposed change in text.

Applicant submitted proposed amendment, summary of the specific objective (“dividing interests of ownership” through the use of interior lots within a principle lot defined by front, back and side lines).

c. A statement of how the proposed amendment relates to the Comprehensive Plan.

Applicant submitted a statement of how the amendment relates to the Comprehensive plan which is attached.

d. A fee established in a separate ordinance approved by the Council.

The fee was \$519.04 as shown on application materials.

14.6 When evaluating any proposed amendment under this Article, the Commission and Council shall make findings of fact on the following criteria:

a. The proposed amendment is in accordance with the Comprehensive Plan;

The Council should consider how the proposed amendments relate to the various goals of the Comprehensive Plan (listed below for reference). Three goals have been identified as being the most applicable to this amendment:

5.1 Retain a compact City comprising a central downtown with surrounding diverse neighborhoods.

The City seeks to accommodate population growth through a balanced combination of two means:

- 1. “infill” development or redevelopment of existing land within the current City limits in accordance with existing zoning and density allowances without necessitating the use of density bonuses or waivers, and**
- 2. “expansive” development due to the annexation of new land into the City and/or density increases relating to PUD bonuses and/or zoning amendments.**

The text amendment is a proposed zoning amendment and may be a means to accommodate population growth. The text amendment may comply with Comprehensive plan sub-goal 5.1(2) and may assist in providing for compactness in the SCI-I zoning district.

Section 6.2 Encourage abundant, competitive, and career-oriented opportunities for young workers.

The number of 25-34 year olds living in Hailey in 2011 was only 219. These numbers likely haven’t changed significantly. Allowing property ownership interests to be divided through use of interior lots within a principle lot may encourage additional smaller businesses, more spinoffs, and/or new startups, which often are began by young career oriented people and professionals.

7.1 Encourage a variety of projects and programs that meet the needs generated by various segments of the population

Allowing property ownership interests to be divided through use of interior lots within a

principle lot may assist to meet the needs of various segments of the population.

Comp Plan Goals (2010)	
1.1	Preserve, protect and restore natural resources including waterways, floodplains, wetlands, soil, community forest, native vegetation, green space and wildlife habitat and migration corridors for the benefit of the City and its residents.
1.2	Efficiently use and conserve resources.
1.3	Promote renewable energy production
1.4	Promote energy conservation
1.5	Promote air quality protection
2.1	Reduce the potential threat to loss of life, limb or property and minimize public expenditures due to natural and man-made hazards.
3.1	Assure the protection and preservation of Special Sites, Areas and Features to maintain a strong community identity for future generations
3.2	Protect the residential character of the original Townsite.
4.1	Create and maintain an interconnected system of parks, recreational facilities, trails, green spaces and natural lands in order to provide diverse recreation opportunities for Hailey residents within ¼ mile to ½ mile of the greatest number of residents.
5.1	Retain a compact City comprised a central downtown with surrounding diverse neighborhoods, areas and characteristics as depicted in the Land Use Map:
a.	Main Street Corridor – area of high density commercial, mixed use and residential development.
b.	Downtown - the historic commercial center containing the greatest concentration of commercial, cultural and civic activity. Downtown is the priority area for encouraging higher density commercial and mixed use (commercial and residential) development.
c.	Community Activity Areas – located at the north and south ends of the Main Street Corridor. High density residential is encouraged. Commercial and mixed use (commercial and residential) development is appropriate, but should be subordinate and secondary to the infill of Downtown.
d.	High Density Residential – high density residential infill is encouraged in the area along Main Street and River Street between Downtown and the north and south ends of Main Street.
e.	Residential Buffer – medium density residential, providing a buffer between lower density residential neighborhoods to the east and west and the Main Street District.
f.	Traditional Residential – Density varies depending on the qualities of different neighborhoods, generally density is higher within a ¼ mile of Downtown, Community Activity Areas or Neighborhood Service Centers and connected by transit service.
g.	Neighborhood Service Centers – Small commercial areas serving residents within walking distance (¼ to ½ mile) where commercial use is subordinate to residential uses and to Downtown or Community Activity Areas.
h.	Light Industrial – Areas containing uses important to a variety of business sectors that focus on the production of products and services that are less compatible with, and do not compete with, uses in Downtown and the Community Activity Areas.
i.	Airport Site Redevelopment – a diversity and integration of uses and community assets that complement and support Downtown and are connected within and to existing neighborhoods.

j.	Community Gateways – areas where one has a sense of arrival or sense of being within a part of town distinguished from others providing opportunities for special design considerations.
5.2	Maintain Downtown as the area containing the greatest concentration of commercial, cultural and civic activity and as the priority area for encouraging higher density commercial and mixed use (commercial and residential) development.
5.3	Continue cooperation with the Blaine County and the Friedman Memorial Airport Authority in regional planning efforts to optimally relocate the airport and plan for the long term redevelopment of the site within the city limits to ensure that changes in land use are beneficial to the community of Hailey.
5.4	Protect open space within and surrounding Hailey, including visible ridgelines, undeveloped hillsides and agricultural areas which help define the unique character of Hailey.
5.5	Lessen dependency on the automobile.
5.6	Manage and accommodate population growth by infill development and, when appropriate, minimal expansion by annexation and/or density increases.
5.7	Encourage development at the densities allowed in the Zoning Code.
6.1	Encourage a diversity of economic development opportunities within Hailey
6.2	Encourage abundant, competitive and career-oriented opportunities for young workers.
7.1	Encourage a variety of projects and programs that meet the needs generated by various segments of the population, especially the needs of those who risk suffering effects of discrimination or are socially or economically disadvantaged.
7.2	Encourage projects and programs that seek to provide opportunities for cultural, cross-cultural and educational enrichment.
8.1	Encourage development that provides opportunities for home ownership and rental homes for individuals and families of all socio-economic levels.
9.1	Plan for the long-term utilities, service and facility needs of the City while minimizing impacts to the greatest extent possible.
10.1.	Create and maintain a pedestrian and bicycle-friendly community that provides a safe, convenient and efficient multi-modal transportation system for all Hailey residents.
11.1	Establish a built environment that maintains a human scale, retains interest, aesthetics, encourages various levels of interaction among all members of the community, and enhances the character of different neighborhoods.
12.1	Evaluate whether proposed regulatory or administrative actions may result in an unconstitutional taking of private property.
13.1	Encourage and facilitate the development of school facilities that are planned consistently with the city's other land use policies.
13.2	Ensure the provision of safe, adequate, convenient multi-modal transportation access to all existing and future school sites.

b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;

There are no additional costs or compromise anticipated to public facilities and services. Each individual future application would be considered separately with specific facilities and services standards applied.

c. The proposed uses are compatible with the surrounding area; and

The proposed amendment may attract additional traffic to the SCI-I district, but the general location and vicinity near the airport merits high density and high job attraction.

d. The proposed amendment will promote the public health, safety and general welfare.

It is not anticipated that the proposed amendment will adversely affect the public health, safety and welfare of citizens.

SUBDIVISION ORDINANCE STANDARDS

Section 13.3.1 of the Subdivision Ordinance sets forth the standard of evaluation for text amendments:

- 1. The Commission shall consider the relationship of the proposed amendment to the Comprehensive Plan in making its recommendation to the Council.**

Please see relation to Comprehensive Plan Goals 5.1, 6.2, and 7.1 above.

Summary

Following a public hearing before the Planning and Zoning Commission and recommendation from the Commission to the City Council, the Council shall hold a public hearing and determine whether the proposed amendments are in accordance with the Comprehensive Plan. Based on the public hearing before the Planning and Zoning Commission on May 13, 2013, the Commission recommends that the proposed amendment be approved.

Upon approval of an amendment, the Council shall pass an ordinance making the amendment part of Hailey Zoning Ordinance No. 532 and Subdivision Ordinance No. 821. The draft ordinances are attached.

Motion Language

Council:

Motion to approve the proposed amendments to Zoning Ordinance Sections 2.1, 4.12.3.4, and 6A.5B, and Subdivision Ordinance Sections 1.2, 3.1.1.1, and 4.5.5, finding that the amendments are in accordance with the Comprehensive Plan, that essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare.

Denial:

Motion to deny the proposed amendments to Zoning Ordinance Sections 2.1, 4.12.3.4, and 6A.5B, and Subdivision Ordinance Sections 1.2, 3.1.1.1, and 4.5.5 finding that _____ [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

Continuation:

Motion to continue the public hearing upon the proposed amendment to Zoning Ordinance Articles 2.2, 4.12.3.4, and 6A.5B, and Subdivision Ordinance Sections 1.2, 3.1.1.1, and 4.5.5 to _____ [the Council should specify a date].

Table:

Motion to table the proposed Zoning Ordinance Sections 2.2, 4.12.3.4, and 6A.5B, and Subdivision Ordinance Sections 1.2, 3.1.1.1, and 4.5.5.

HAILEY ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S SUBDIVISION ORDINANCE, ORDINANCE NO. 821, BY AMENDING SECTION 1.2 TO ADD THE DEFINITION OF INTERIOR LOT, BY AMENDING SECTION 3.1.1.1 TO REQUIRE THE SUBMITTAL OF AGREEMENTS A SUBDIVISION CREATING INTERIOR LOTS AND BY AMENDING SECTION 4.5.5 TO MODIFY ACCESS REQUIREMENTS FOR INTERIOR LOTS WITHIN THE SERVICE COMMERCIAL INDUSTRIAL (SCI-I) ZONING DISTRICT AND; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Subdivision Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services; and

WHEREAS, the amendment will be in accordance with the welfare of the general public.

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

Section 1. Section 1.2 of Hailey Subdivision Ordinance No. 821 is hereby amended by the addition of the definition "Interior Lot," as follows:

Interior Lot: A lot used solely for the purpose of dividing interests of ownership within a principle lot that meets the bulk requirements of its zoning classification and is defined by front, back and side lines.

Section 2. Section 3.1.1.1 of Hailey Subdivision Ordinance No. 821 is hereby amended by the addition of the underlined language, as follows:

3.1.1.1 The following items must also be submitted along with the preliminary plat before such application will be certified as complete:

- The names and mailing addresses of all property owners, along with the legal descriptions of all properties, within 300 feet of the outer boundaries of the parcel proposed for subdivision. The names and mailing addresses of all easement holders within the subject property. This information shall be provided in a format acceptable to the administrator.
- A phasing plan if the Developer intends to develop the project in phases. The Plan must include the numbers of lots in each phase, the infrastructure planned for completion with each phase, the amenities to be constructed with each phase, the deadline for completion of each phase, and all other information pertinent to the completion of the development.

- A draft of any private restrictions proposed to be recorded for the purpose of providing regulations governing the use, building lines, Green Spaces or any aspect of their development, use and maintenance.
- An Area Development Plan if applicable pursuant to Section 4.6.4.
- A community Housing Plan, if applicable, pursuant to Section 4.11.
- Such other information as may be required by the Commission, Hearing Examiner or Administrator.
- An application fee as established by ordinance.
- A cross-easement agreement, a tenancy in common agreement, or an association declaration if the Developer intends to create one or more Interior Lots.
- A party wall agreement if the Developer intends to create one or more Interior Lots.

Section 3. Section 4.5.5 of Hailey Subdivision Ordinance No. 821 is hereby amended by the addition of the underlined language and the deletion of the stricken language, as follows:

4.5.5 All lots shall have frontage on a public or private street except Interior Lots. No frontage width shall be less than the required width of a driveway as provided under Sections 4.1.11.1 and 4.5.4 of this Ordinance. Townhouse Sub-Lots are ~~excluded~~ from this requirement; provided, however, that Townhouse Developments shall have frontage on a street.

Section 4. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 5. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 6. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2013.

Fritz X. Haemmerle, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

Publish: Idaho Mountain Express _____, 2013

HAILEY ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 2.2 TO ADD THE DEFINITION OF INTERIOR LOT, BY AMENDING SECTION 4.12.3.4 TO ESTABLISH BULK REQUIREMENTS FOR INTERIOR LOTS WITHIN THE SERVICE COMMERCIAL INDUSTRIAL (SCI-I) ZONING DISTRICT AND BY AMENDING SECTION 6A.5B TO REQUIRE THE SUBMITTAL OF AGREEMENTS FOR DESIGN REVIEW ON INTERIOR LOTS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services;

WHEREAS, the proposed uses are compatible with the surrounding area; and

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public.

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

Section 1. Section 2.2 of Hailey Zoning Ordinance No. 532 is hereby amended by the addition of the definition "Interior Lot," as follows:

Interior Lot: A lot used solely for the purpose of dividing interests of ownership within a principle lot that meets the bulk requirements of its zoning classification and is defined by front, back and side lines.

Section 2. Section 4.12.3.4 of Hailey Zoning Ordinance No. 532 is hereby amended by the addition of the underlined language, as follows:

4.12.3.4 Bulk Requirements within the **SCI-I** sub district. For other supplementary location and bulk regulations, see Article VII.

- a. Minimum Lot Size: 10,890 square feet.
- b. Maximum Building Height – thirty-five (35) feet.
- c. Maximum Floor Area – Buildings or structures containing an Individual Retail/Wholesale Trade or a Grouped Retail/Wholesale Trade shall be limited to an aggregate gross floor area of 25,000 square feet.
- d. Minimum Front Yard Setback – ten (10) feet.
- e. Minimum Side and Rear Yard Setback – ten (10) feet.
- f. No parking shall be placed within the setback areas.

- g. Maximum Lot Coverage – Not more than seventy percent (70%) of the lot shall be covered by buildings.
- h. All materials, with the exception of trees and plan materials stored on the premises shall be stored within a building or within a wall or screening fence not less than four (4) feet nor greater than eight (8) feet in height.
- i. For the purposes of dividing interests of ownership, interior lot lines may be used to create interior Lots within a principle Lot that is defined by Front, Back and Side Lines.
 - i. Interior Lot lines are those inward of a principle Lot's Front, Back and Side Lines.
 - ii. Interior lot lines used for the purpose of creating Interior Lots shall have zero Setback.
 - iii. Interior Lots created using interior lot lines shall be no less than 162 square feet or the area of a City defined standard parking stall, whichever is less.
 - iv. Interior Lots, or a combination of Interior Lots, created with interior lot lines shall adhere to the Bulk Requirements of the principle Lot.
 - v. Control over an Interior Lot's access, parking and utilities shall be managed by a Cross-Easement agreement, a Tenancy in Common agreement, or an Association agreement owned by Interior Lot owners.
 - vi. Interior Lots may create stand-alone lots, lots with stand-alone buildings, or lots with buildings that have a portion that is adjoined to other buildings at interior lot lines. Where interior lots create buildings that are adjoining at lot lines, a party wall agreement shall be made between effected parties.
 - vii. Interior Lots, except Interior Lots platted with existing buildings, must have separate utility services, and services that do not pass through another building or unit.

Section 3. Section 6A.5(B) of Hailey Zoning Ordinance No. 532 is hereby amended by the addition of the underlined language, as follows:

- B. The following information is required with an application for Design Review:
 - 1. The Design Review application form including project name and location, and applicant and representative names and contact information.
 - 2. One (1) full size set of prints and six (6) sets of 11" X 17" copies (two if heard by the Hearing Examiner) showing at a minimum the following:
 - a. Vicinity map, to scale, showing the project location in relationship to neighboring buildings and the surrounding area. Note: a vicinity map must show location of adjacent buildings and structures
 - b. Drainage plan (grading, catch basin, piping, and dry-wells).
 - c. Utilities plan (location and size of water and sewer mains and services, gas, electric, TV and phone).
 - d. Site plan, to scale, showing proposed parking (including parking stall dimensions), loading, general circulation, and snow storage. List square footage of subject property including lot dimensions.
 - e. Landscape plan (existing landscaping on the site shown as retained, relocated or removed; proposed landscaping including species type, size and quantity).

f. Floor plan. List gross square footage for each floor. List occupancy classification and type of construction.

g. Detailed elevations of all sides of the proposed building and other exterior elements (colors, materials).

h. Exterior Lighting plan, pursuant to Article VIII B, of the Zoning Ordinance (location, height, type, and lumen output; spec sheets for fixtures; illuminance levels/photometrics for area lighting).

i. Sign plan (location, dimensions and lighting).

3. Plans and drawings for all buildings, except Single Family Dwellings and Accessory Structures, shall be prepared and stamped by an Idaho licensed architect.

4. A materials and colors sample board. Each sample should be approximately 12” X 12” in size.

5. One (1) colored rendering of at least one side of the proposed building.

6. Staging and contractor parking plan. Statement of where staging will occur, and parking plan for contractors. If any staging or parking shall occur off-site, a staging/parking plan must be submitted including materials storage, excavation (backfill) stockpile areas, job trailers, blue rooms, dumpsters, contracting parting, etc.

7. A list of the names and addresses of all property owners and residents within three hundred (300) feet of the exterior boundaries of the subject property, in a format acceptable to the City.

8. Payment of applicable fees.

9. A cross-easement agreement, a tenancy in common agreement, or an association declaration if the applicant intends to build, develop, or remodel a Building on one or more Interior Lots.

10. A party wall agreement if the applicant intends to build, develop, or remodel a Building on one or more Interior Lots.

11. 9. Other information as required by the Administrator, Hearing Examiner or the commission.

Section 4. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 5. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 6. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE
MAYOR THIS ____ DAY OF _____, 2013.

Fritz X. Haemmerle, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

Publish: Idaho Mountain Express _____, 2013

DRAFT

AGENDA ITEM SUMMARY

DATE: 6/17/13 DEPARTMENT: _____ DEPT. HEAD SIGNATURE: 

SUBJECT: Proposed Ordinance - Cross Connection annual testing/reporting requirements for irrigation and fire sprinkler systems and User Fee revisions

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

This proposed ordinance was introduced at the June 3 city council meeting. After discussion it was moved to this meeting for public hearing.

Cross Connection refers to the water backflow prevention devices. These are important to prevent contamination of the city water supply and require regular inspection. Our Municipal code currently has a minimal section, 13.04.060, on cross connections that requires improvement. We have received information that DEQ will be addressing this issue with their next Sanitary Survey which we anticipate will occur in June or July. The main focus of this ordinance is the requirement for annual testing of all backflow devices, including all irrigation systems, and maintaining a record of the inspections. As there was a question as to the DEQ requirement for oversight of annual inspections I have included the Administrative code for your information.

The user fee revision relates to the refinancing of both our Water and Wastewater bonds that include a requirement that revenues over expenses maintain 150% of the bond payment. This revision adds language that we comply with all outstanding loan requirements in setting fees.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments: _____

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- | | | |
|---------------------------------------------|----------------------------------------------|---------------------------------------------|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney | <input type="checkbox"/> Mayor | <input type="checkbox"/> Streets |
| <input type="checkbox"/> City Clerk | <input type="checkbox"/> Planning | <input type="checkbox"/> Treasurer |
| <input type="checkbox"/> Building | <input type="checkbox"/> Police | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Engineer | <input type="checkbox"/> Public Works, Parks | <input type="checkbox"/> _____ |
| <input type="checkbox"/> Fire Dept. | <input type="checkbox"/> P & Z Commission | <input type="checkbox"/> _____ |

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to approve Ordinance _____ and conduct the first reading by title only.

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agrmt./Order Originals: Record
Copies (all info.):
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (3-30-07)

05. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals shall be specifically approved by the Department. (3-30-07)

b. Fluoride compounds shall be stored in covered or unopened shipping containers. (3-30-07)

c. Provisions shall be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels shall be disposed of in a manner that will minimize exposure to fluoride dusts. (3-30-07)

d. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

06. Cross Connection Control Program - Community Water Systems. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance to the system of materials known to be toxic or hazardous. The water purveyor is responsible to enforce the system's cross connection control program. The program will at a minimum include: (4-7-11)

a. An inspection program to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-8-09)

b. Required installation and operation of adequate backflow prevention assemblies. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water should be selected from the AWWA Pacific Northwest Section Cross Connection Control Manual, the Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must meet the requirements of Section 543 and comply with local ordinances. (4-4-13)

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing shall be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Foundation Manual of Cross-Connection Control referenced in Subsection 002.02. (4-7-11)

d. Discontinuance of service to any structure, facility, or premises where suitable backflow protection has not been provided for a cross connection. (4-7-11)

e. Assemblies that cannot pass annual tests or those found to be defective shall be repaired, replaced, or isolated within ten (10) business days. If the failed assembly cannot be repaired, replaced, or isolated within ten (10) business days, water service to the failed assembly shall be discontinued. (4-4-13)

07. Cross Connection Control - Non-Community Water Systems. All suppliers of water for non-community water systems shall ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected and tested annually for functionality by an Idaho licensed tester, as specified in Subsections 552.06.c. and 552.06.e. (4-4-13)

553. CLASSIFICATION OF WATER SYSTEMS.

HAILEY ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF HAILEY AMENDING, CHAPTER 13.04 OF THE HAILEY MUNICIPAL CODE, BY AMENDING SECTION 13.04.060, TO PROVIDE FOR THE INSTALLATION AND MAINTENANCE OF BACKFLOW PREVENTION DEVICES AND FOR INSPECTION; BY AMENDING SECTIONS 13.04.130(A) AND (B) TO INCLUDE AMOUNTS NEEDED FOR LENDING REQUIREMENTS WHEN ESTABLISHING WATER AND WASTEWATER USER FEES; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and the City Council of the City of Hailey wish to amend the Hailey Municipal Code to ensure the safety of the City of Hailey Water Supply;

WHEREAS, the Mayor and the City Council of the City of Hailey wish to amend the Hailey Municipal Code to ensure sufficient water and wastewater fees are collected to comply with lending requirements for capital expenses; and

WHEREAS, the Mayor and City Council find that the amendments to the Chapter will further the public health, safety and general welfare.

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

Section 1. Section 13.04.060 of the Hailey Municipal Code is hereby amended by the addition of the underlined language and by the deletion of the stricken language, as follows:

13.04.060 Cross connections. By adopting this Section, the City hereby establishes and will implement a Cross Connection program to prevent the entrance to the Municipal Water System of materials known to be toxic or hazardous in accordance with the standards for Cross Connections set forth in the shall adhere to Idaho Administrative Code, IDAPA 58.01.08 – Idaho Rules for Public Drinking Water Systems, as amended.

- A. Cross Connections Prohibited. The installation or maintenance of a Cross Connection is hereby prohibited. Any such Cross Connection now existing is declared a nuisance and shall be removed or abated upon order of the City. Failure to remove a Cross Connection or install an approved Backflow Prevention Device as ordered within ten (10) days of the order shall result in discontinuance of municipal water service until compliance is made.
- B. Backflow Prevention Devices. Any facility requiring a Backflow Prevention Device shall follow the requirements of the Idaho Administrative Code, IDAPA 58.01.08, Subsection 900.02 (Table 2), as amended. The minimum required Backflow Prevention Device shall be require a testable double check valve.
- C. Inspections of Existing Buildings, Structures or Improvements. Inspections by the City or its authorized agent, bearing proper credentials and identification, may be made of any existing building, structures or improvements of any nature receiving water from the ~~m~~Municipal

~~wWater Systems~~supply. The City Water ~~Division Manager Superintendent~~ or his authorized agent shall make an inspection of any building, improvement or structure of any nature receiving water from the ~~mMunicipal wWater System~~ supply if there appears probable cause to believe that a Cross Connection exists or that a Backflow Prevention Device should be installed.

D. Required Installations. Backflow Prevention Devices shall be installed at the Owner's expense at the ties on the premises or within any premises where, in the judgment of the City, the nature and extent of activities or the materials stored on the premises would present an immediate and dangerous hazard to health and/or be deleterious to the quality of the water should a Cross Connection occur, even though such Cross Connection does not exist at the time. In such circumstances, Backflow Prevention Devices may be required in the following premises:

1. Premises having an auxiliary water supply, unless the quality of the auxiliary supply is in compliance with title 1, chapter 8, "Idaho Rules for Public Drinking Water Systems", and are acceptable to the City.
2. Premises having internal Cross Connections that are not correctable, or intricate plumbing arrangements which make it impracticable to ascertain whether Cross Connections exist.
3. Premises having a repeated history of Cross Connections.
4. Premises on which any substance is handled under pressure so as to permit entry into the Municipal Water System or where a Cross Connection could reasonably be expected to occur, including the handling of process waters and cooling waters.
5. Premises where materials of a toxic or hazardous nature are handled in such a way that if back siphonage should occur, a health hazard might result.
6. The following premise, unless the City and/or a health officer determine that no hazard exists:
 - a. Hospitals, mortuaries, clinics.
 - b. Laboratories.
 - c. Metal plating industries.
 - d. Sewage treatment plants.
 - e. Food or beverage processing plants.
 - f. Chemical plants using a water process.
 - g. Petroleum processing or storage plants.
 - h. Radioactive material processing plants or nuclear reactors.
 - i. Dry Cleaners
 - j. Others as specified by the health officer.

7. Other premises where Backflow Prevention Devices are reasonably required to protect the Municipal Water System.
 8. Under circumstances set forth in this subsection, the City shall have the right to require a reduced pressure principle Backflow Prevention Device or a proper air gap separation to be installed at the property line.
- E. Minimum Backflow Prevention Device. The type of Backflow Prevention Device required to be installed conform with the requirements of Idaho Administrative Code, IDAPA 58.01.08 – Idaho Rules for Public Drinking Water Systems, as amended, and shall depend on the degree of hazard which exists.
1. An air gap separation and/or a reduced pressure principle Backflow Prevention Device shall be installed where the Municipal Water System may be contaminated with sewage, industrial waste of a toxic nature, or other contaminant which could cause a health or system hazard.
 2. In the case of a substance which may be objectionable but not hazardous to health, a double check valve assembly, air gap separation, or a reduced pressure principle Backflow Prevention Device shall be installed.
 3. Where lawn sprinkling systems using the Municipal Water System are installed, double check valve assembly, reduced pressure principle Backflow Prevention Device, or an air gap separation shall be installed.
- F. Installation. Backflow Prevention Devices required by this section (with the exception of fire sprinkler or standpipe systems) shall be installed at the Water Meter no closer than five feet (5') from the property line of the premises, or at a location approved by the City. The device shall be located so as to be readily accessible for maintenance, inspection and testing, and where no part of the device shall be submerged.
- G. Annual Testing Required. Backflow Prevention Devices required by this chapter shall be installed under a permit issued by the City, and shall not be used until the same is tested by the installer and reported to the City and inspected and approved by qualified City personnel. There shall be no charge for the permit and inspection by the City prior to approval of the installation. Thereafter, the Owner shall have such Backflow Prevention Device tested by a certified backflow prevention tester annually. Such testing, together with all maintenance and repair of such device, shall be at the Owner's expense. All Backflow Prevention Devices shall be tested by a certified backflow prevention device tester at the Owner's expense. Whenever a device does not pass an annual test or is found to be defective, the devices shall, at the Owner's expense, be repaired, replaced, or isolated within then (10) business days. Failure of the Owner to comply with the rules for installation, maintenance, testing or inspection of Backflow Prevention Devices required by this Section shall be grounds for the termination of water service to the premises.
- H. Approved Backflow Preventive Devices. Any Backflow Preventive Device required by this Section shall conform with the requirements of Idaho Administrative Code, IDAPA 58.01.08

– Idaho Rules for Public Drinking Water Systems, as amended. These devices shall be furnished and installed by and at the expense of the Owner.

I. Irrigation Systems. No irrigation system shall be installed without adequate Backflow Prevention Devices at the point from which the water for irrigation is taken from the Municipal Water System, or at a location approved by the City.

J Fire Sprinkler Protection Systems and Fire Hydrants. All existing fire sprinkler or standpipe protection systems shall have an approved reduced pressure Backflow Prevention Device installed and tested by a licensed fire sprinkler installer as approved by the Idaho State Fire Marshals Office. Failure to properly install or maintain the device may result in daily fines as provided for by the International Fire Code and the Hailey Municipal Code. Any termination of water supply to a required fire sprinkler or standpipe system will prevent the continued occupancy or use of the building until the water supply is re-established. Fire sprinkler and standpipe systems shall typically be installed on a separate water supply line prior to any Water Meter. No connection will be made to any Fire Hydrant by any person without having first received the permission of the City, except for firefighting purposes.

K. Private Water System. No person shall make or permit the Cross Connection of any Private Water System to a water line that is served by the Municipal Water System except as provided in this chapter. Whenever an Owner connects to the Municipal Water System, the Owner at Owner's expense shall physically disconnect any Private Water System from the Municipal Water System in such a manner that water from a Private Water System will never pass through the same pipes that carry water from the Municipal Water System, except as may be approved by the City and health officer.

Section 2. Section 13.04.130(A) and (B) of the Hailey Municipal Code is hereby amended by the addition of the underlined language and by the deletion of the stricken language, as follows:

13.04.130 Water and Wastewater User Fees. The Owner or Owner's agent of all Property connected to the Municipal Water or Wastewater System under the terms of this chapter shall be assessed and shall pay monthly user fees as follows:

A. Water User Fees.

1. User Base Fee. The monthly user base fee is intended to cover the costs of the operation, maintenance and expansion of the Municipal Water System, including but not limited to: 50% of the labor, benefits and administrative costs and any other necessary amounts required to be collected to comply with outstanding lending requirements and 100% of DEQ fees, insurance, training and short-term depreciation. The monthly user base fee shall be assessed to each Property. The monthly user base fee shall be calculated by dividing the yearly operation, maintenance and expansion costs of the Municipal Water System described herein by the number of Water Users. Property with two or more services extended to it shall have the choice of paying a single monthly user base fee (for all services connected to the Property) or establishing separate accounts for each service with a Landlord/Tenant agreement as described in Section 13.04.150.

2. Metered Water Fee. The monthly metered fee is intended to cover the variable costs of the Municipal Water System, including the operation and maintenance costs which consist at least of, but not limited to; 50% of the labor, benefits and administrative costs, parts, fuel, utilities, vehicle maintenance, lab tests and chemicals, and any other necessary amounts required to be collected to comply with outstanding lending requirements. The monthly metered water fee shall be assessed to each separate Service Connection based upon the total amount of water used by that Property during one billing period. The metered rate is determined on a sliding scale based upon the variable costs of the Municipal Water System described herein, and as adopted by City Council resolution. The sliding scale shall assess a proportionally greater cost per gallon(s) of water as more water is used by a Property.

3. Bond Payment Fee. The monthly bond payment is intended to cover the cost of bond and note retirement costs which are the legal indebtedness the City is obligated to retire on a set schedule. The monthly water bond payment is determined by taking the bond and note retirement costs and dividing by the number of Water Users utilizing the system during the twelve month period. The monthly bond payment fee shall be assessed to each Property. Bond payment fees will continue even if water services are discontinued at any point.

4. Irrigation Fee. The monthly metered irrigation fee shall be assessed to each Property with a separate irrigation account based upon the amount of water used during one billing period.

B. Wastewater User Fees.

1. User Base Fee. The monthly user base fee is intended to cover the costs of the operation, maintenance and expansion of the Municipal Wastewater System, including but not limited to; 50% of the labor, benefits and administrative costs, and any other necessary amounts required to be collected to comply with outstanding lending requirements and 100% of DEQ fees, insurance, training, and short-term depreciation. The minimum monthly user fee shall be assessed to each Property. The monthly user base fee shall be calculated by dividing the yearly operation, maintenance and expansion costs of the Municipal Wastewater System described herein by the number of Wastewater Users. Property with two or more services extended to it shall have the choice of paying a single monthly user base fee (for all services connected to the Property) or establishing separate accounts for each service with a Landlord/Tenant agreement as described in Section 13.04.150.

2. Metered Wastewater Fee. The monthly metered fee is intended to cover the variable costs of the Municipal Wastewater System, including the operation and maintenance costs which consist at least of, but not limited to; 50% of the labor, benefits and administrative costs, and any other necessary amounts required to be collected to comply with outstanding lending requirements, and 100% of parts, fuel, utilities, vehicle maintenance, lab tests and chemicals. The monthly metered wastewater charge shall be assessed to each separate Property based upon the average amount of water used by that Property between November 1 and March 31 of the following year. During the following month of April, the monthly wastewater metered

charge shall be adjusted based upon the average use of water used by each Property owner except as provided under Section 13.04.130(D)(3) and (4).

3. Non-Metered Account Fee. The new construction Wastewater user accounts, where an average winter water use has not been established, shall pay a set monthly charge to cover all fixed and variable costs of the Municipal Wastewater System.

4. Bond Payment Fee. The monthly bond payment is intended to cover the cost of bond and note retirement costs which are the legal indebtedness the City is obligated to retire on a set schedule. The monthly bond payment is determined by taking the bond and note retirement cost and dividing by the number of Wastewater Users utilizing the system during the twelve month period. The monthly bond payment fee shall be assessed to each Property based upon a standard $\frac{3}{4}$ " water service connection. Bond payment fees will continue even if sewer services are discontinued at any point.

Section 3. All Ordinances or Resolutions or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

Section 5. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this ___ day of June, 2013.

Fritz X. Haemmerle, Mayor
City of Hailey

ATTEST:

Mary Cone, City Clerk

