

AGENDA ITEM SUMMARY

DATE: June 27, 2011 **DEPARTMENT:** Community Development

DEPT HEAD: SR

SUBJECT: Ordinance 1084 - Amendments to Municipal Code Chapter 9.04 to establish an outdoor amplified sound permit

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On June 13, 2011 the Council approved Ordinance 1084, with the language in section B.1 changed back to "as to be plainly audible at a distance of fifty feet from the property line" and authorized the first reading.

A resolution establishing the permit fee will be prepared for Council approval with the third reading of the ordinance.

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

Decibel meter costing approximately \$200.00 and staff time to administrator. The suggested permit fee is \$25.00.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

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

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to conduct the second reading of Ordinance 1084 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./Agmt./Order Originals: Record *Additional/Exceptional Originals to: _____
Copies (all info.): _____ Copies (AIS only)
Instrument # _____

...the ... of ...

HAILEY ORDINANCE NO. 1084

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 9.04, OFFENSES AGAINST PUBLIC PEACE OF THE HAILEY MUNICIPAL CODE BY ESTABLISHING AN OUTDOOR AMPLIFIED SOUND PERMIT AND EXEMPTING APPROVED SPECIAL EVENT PERMITS, PARK RESERVATION AND OUTDOOR AMPLIFIED SOUND PERMITS FROM THE RESTRICTIONS OF SECTION 9.04.030; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and the City Council of the City of Hailey wish to make the City of Hailey an event friendly place while maintaining public safety and reducing costs and time associated with permitting incurred by the city and the applicant;

WHEREAS, the City Council has considered amendments to the Special Event and Park Use Chapters of the Municipal Code;

WHEREAS, the Special Event Chapter of the Municipal Code exempts events fully contained on private property within the business zoning district, a school or recreational district sporting event held on a school or recreational district property and government events, however the amplification of sound is an activity that effects the general public and the city wishes to have a mechanism to monitor such activity; and

WHEREAS, the Mayor and City Council find that such an amendment 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 9.04.030 of the Hailey Municipal Code is amended by the addition of the underlined language and the deletion of the stricken language, as follows:

A. Except as otherwise provided herein, it is unlawful for any person to make, create, continue or cause to be made, created or continued, any loud or unnecessary noise, which noise disturbs or injures others within the limits of the city, or which adversely affects the comfort, health, peace or safety of others within the limits of the city.

1. Outdoor amplified sound may be permitted with an approved Special Events permit, an approved park reservation or an approved amplified sound permit. Permitted outdoor amplified sound shall be limited to the hours between 10:00 a.m and 10:00 p.m.

B. Except as otherwise provided herein, tThe following acts are declared to constitute the making of loud, disturbing and unnecessary noises in violation of this section, but the enumeration contained in this subsection shall not be deemed to be exclusive:

1. Radios, Phonographs, Loudspeakers and Sound Amplifiers. The using, playing or operating, or permitting the playing, using or operating, of any radio, television, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the production or reproduction of sound in such a manner as to disturb the peace, quiet and comfort of neighboring residents or inhabitants, including the projection of volume or sound louder than is necessary for the hearing of the person or persons in a building or vehicle in which such machine or device is operated. The operation of any such radio, television, musical instrument, phonograph, loudspeaker, sound amplifier, or other machine or device in such a manner as to be plainly audible at a distance of fifty feet from the property line of any property where the same is located, or at a distance of fifty feet from any vehicle in which the same is located, shall be prima facie evidence of violation of this section, except for special events approved by the city administrator, i.e., Northern Rockies Folk Festival with an approved special event permit, an approved park reservation permit or an approved amplified sound permit;

2. Building and Site Construction, Alteration, and Demolition, Repair and Maintenance. The construction, including excavation, of new buildings and the demolition, alteration or repair of any existing building, other than except between the hours of seven a.m. and seven p.m. on weekdays and eight a.m. and seven p.m. on Saturdays and nine a.m. to seven p.m. on Sundays, except in cases where urgent necessity in the interest of public health and safety has been demonstrated to the city administrator and except sounds emitted by snow removal and yard maintenance equipment in operation;

3. Pile Drivers, Hammers, Etc. The operation of any pile driver, pneumatic hammer, derrick, ram, or electric hoist, the use of which involves loud or unusual noise, and blasting or any other use of explosives, other than except between the hours of seven a.m. and seven p.m. Monday through Friday, except in cases where urgent necessity in the interest of public health and safety has been demonstrated to the city administrator;

4. Animals. The keeping of any animal under circumstances where resulting frequent or long, continuous noise disturbs the peace, comfort or repose of other persons in the vicinity where the animal is kept.

C. An outdoor amplified sound permit is required for those events exempted by Section 12.14.030 of the Hailey Municipal Code.

1. An outdoor amplified sound permit application must be completed and filed with the city two business days prior to the event date. An outdoor amplified sound permit may be administratively approved after an applicant submits the following information on a form provided by the city.

- a. the name, address, and telephone number of the applicant;
- b. the address of the location of the property where the amplified sound will be generated;
- c. the maximum decibel level expected to be generated;
- d. the time during which the sound equipment will be used;
- e. an application fee, if established by separate resolution; and
- f. a statement that the applicant has obtained a copy of the applicable requirements of this chapter and agrees to comply with all applicable requirements.

2. An outdoor amplified sound permit may be administratively approved upon finding that the requirements of this chapter have been met.

3. Approval of Permit. The Chief of Police or his/her designee shall approve the application unless one of the following finding are made:

a. Use of the equipment would constitute a detriment to traffic safety;

b. The issuance of the permit would be otherwise detrimental to the public health, safety or welfare;

c. The issuance of the permit will substantially interfere with the peace and quiet of the neighborhood or the community;

d. The applicant would violate the provisions of this Code or any other law.

4. Upon approval of an outdoor amplified sound permit a Hailey Police officer may visit the property on the day of set up of the amplified sound equipment to measure the decibel level emitted and mark the maximum decibel level permitted on the equipment.

5. The decibel level shall not exceed ninety (90) dB measured at the property line at any time during the event.

6. Disapproval of Permit. In the event the permit application is not approved, the Chief of Police or his designee shall state the reason(s) for such in writing and provide the applicant with the written statement.

7. Right of Appeal. Any person whose permit application is denied may appeal to the City Council within ten (10) calendar days from the date of notification of decision.

D. Penalties. Any person who violates any provision of this section shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine not exceeding three hundred dollars, imprisonment in the county jail for a period not exceeding thirty days, or both such fine and imprisonment.

Section 2. Severability Clause. 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 3. Repealer Clause. All ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. Effective Date. 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 _____, 2011.

Richard Davis, Mayor
City of Hailey

ATTEST:

Mary Cone, City Clerk

Publish: Idaho Mountain Express _____, 2011