

AGENDA ITEM SUMMARY

DATE: 10/25/2010

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE:



SUBJECT:

Memorandum of Understanding (Planning for Redevelopment of Friedman Memorial Airport Site)

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

See attached memo.

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:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

___ City Attorney	___ Clerk / Finance Director	___ Engineer	___ Building
___ Library	___ Planning	___ Fire Dept.	___
___ Safety Committee	___ P & Z Commission	___ Police	___
___ Streets	___ Public Works, Parks	___ Mayor	___

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to approve the MOU and authorize the mayor to sign.

FOLLOW-UP REMARKS:

# MEMORANDUM

TO: Mayor Rick Davis and Hailey City Council Members

FROM: Ned C. Williamson

DATE: October 20, 2010

RE: MOU – Master Plan Funding Agreement

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The Council initially approved an MOU for the master plan finding of the Friedman Memorial Airport site at the September 27, 2010, meeting. At the October meeting of the FMAA, Commissioner Schoen asked for some revisions to the MOU. The Airport Manager made the revisions and circulated the revised MOU to the members of the FMAA and asked the members whether he correctly captured the revisions. The revised MOU was then forwarded to me. I compared the revised MOU with the MOU approved by the Council and redlined the revisions. At the October 11, 2010 Council Meeting, the Council decided to allow Council Member Haemmerle and me to discuss the proposed revisions with Commissioner Schoen. I scheduled a meeting with Commissioner Schoen and Tim Graves. During that meeting, we learned that Commissioner Schoen did not request all of the revisions forwarded to me. I then revised the MOU to reflect our discussion and forwarded that document to Tim Graves. Commissioner Schoen made several more revisions which have been forwarded to me. Commissioner Bowman has also forwarded the latest revised MOU to the Airport Manager.

I am attaching the various e-mails between the parties and the most recent proposed MOU. I am asking that Council make a motion to approve the MOU which is at the end of the attached documents, and authorize the mayor to sign.

cc: Heather Dawson (w/ encl.)  
Beth Robrahn (w/ encl.)

**Ned Williamson**

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**From:** "Lawrence Schoen" <lschoen@co.blaine.id.us>  
**Date:** Friday, October 15, 2010 3:02 PM  
**To:** "Fritz Haemmerle" <fxh@haemlaw.com>  
**Cc:** <wlo@cox-internet.com>; "Tim Graves" <tgraves@co.blaine.id.us>  
**Subject:** RE: land use authority

Fritz—  
 In my view, Hailey is the only entity that has the legal authority to approve a land use plan or zoning changes for lands within the city limits.

Blaine County has an interest in the plan only insofar as it is, presumably, an owner or co-owner of the subject property; furthermore, insofar as it is a co-owner and co-sponsor of Friedman Airport and will be the owner and sponsor of the Replacement Airport.

Best regards,  
 Larry

*Lawrence Schoen*  
**Blaine County Commissioner**  
 206 First Avenue South  
 Hailey, Idaho 83333

Ph: 208-788-5500  
 Fx: 208-788-5569  
 E: [lschoen@co.blaine.id.us](mailto:lschoen@co.blaine.id.us)

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**From:** Fritz Haemmerle [mailto:fxh@haemlaw.com]  
**Sent:** Friday, October 15, 2010 2:48 PM  
**To:** Lawrence Schoen; wlo@cox-internet.com; Tim Graves  
**Subject:** RE:

Larry:

Confirming, of course, that the City of Hailey is the sole authority to determine the land use plan for the Airport site.

Thank you.

Fritz X. Haemmerle  
 HAEMMERLE & HAEMMERLE, P.L.L.C.  
 P.O. Box 1800  
 Hailey, ID 83333  
 Tel: (208) 578-0520  
 FAX: (208) 578-0564

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**From:** Lawrence Schoen [mailto:lschoen@co.blaine.id.us]  
**Sent:** Friday, October 15, 2010 2:41 PM  
**To:** wlo@cox-internet.com; Tim Graves  
**Cc:** fxh@haemlaw.com  
**Subject:** FW:

Ned, Tim—

Thank you both, and Fritz, again for last night's brief meeting. The redlined version here reflects our discussion, as well as my quick call to you today Ned with the one add'l deletion in Paragraph 9 and the addition of a signature line for Blaine County. It is, of course, regrettable that the unintended edits were not picked up, resulting in concern among the Council, but am glad we caught them and am happy with the result.

Best regards,  
Larry

Lawrence Schoen  
Blaine County Commissioner  
206 First Avenue South  
Hailey, Idaho 83333

Ph: 208-788-5500  
F: 208-788-5569  
E: [lschoen@co.blaine.id.us](mailto:lschoen@co.blaine.id.us)

---

**From:** Tim Graves  
**Sent:** Friday, October 15, 2010 1:39 PM  
**To:** Lawrence Schoen  
**Subject:** FW:

Larry,

Agreements attached. It seems to follow with our conversation yesterday.

Tim

Timothy K. Graves  
Chief Deputy Prosecuting Attorney  
Blaine County Prosecuting Attorney's Office  
201 Second Ave. South, Suite 100  
Hailey, ID 83333

(208) 788-5545  
(208) 788-5554 (fax)

[tgraves@co.blaine.id.us](mailto:tgraves@co.blaine.id.us)

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**From:** Ned Williamson [<mailto:wlo@cox-internet.com>]  
**Sent:** Friday, October 15, 2010 10:53 AM  
**To:** Tim Graves  
**Cc:** Baird Rick; Luboviski Barry  
**Subject:** Fw:

Tim,

I am forwarding to you the MOU which was recently reviewed by the Hailey City Council and a redlined MOU. As we learned yesterday, Larry did not intend to include as many references to the county as shown in the draft recently reviewed by Hailey. I hope I have included the language Larry wants in the redlined MOU. Please note that the redlined MOU includes the date of the earlier agreement and its instrument number. I intend to put this revised MOU before the Council on 10-25-10. Please let me know if you have any suggestions. Thank you.

Ned

Ned C. Williamson, Esq.  
Williamson Law Office, PLLC  
115 Second Avenue South  
Hailey, Idaho 83333  
Ph. (208) 788-6688  
Fax (208) 788-7901

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**From:** Rick Baird  
**Sent:** Wednesday, October 06, 2010 8:12 PM  
**To:** 'Tom Bowman' ; 'Martha Burke' ; 'ron fairfax' ; 'susan mcbryant' ; 'Lawrence Schoen'  
**Cc:** 'Barry Luboviski' ; 'Ned Williamson'

Hi all:

I believe I captured the edits approved by the Board last night. Please review and comment. Susan or Martha will you get this to Heather and talk to Ned or would you like me to? Have a great evening. Rick

## MEMORANDUM OF UNDERSTANDING

### PLANNING FOR REDEVELOPMENT OF FRIEDMAN MEMORIAL AIRPORT SITE

1. The City of Hailey ("City"), Blaine County ("County") and the Friedman Memorial Airport Authority ("Airport Authority") have separately entered into an "Agreement for Development of the Replacement Airport and Redevelopment of the Friedman Memorial Airport," dated July 6, 2010 and recorded as Instrument No. 579244, records of the County Recorder, Blaine County, Idaho, which sets forth the City's, Airport Authority's and Blaine County's respective obligations and responsibilities in the planning for the replacement airport and for redevelopment of the existing airport site.
2. The City and Airport Authority have determined that it is most appropriate, and that it will optimize the usefulness of a plan, if the redevelopment plan considers the *entire* existing airport site without regard to ownership of specific parcels. Both the City and the Airport Authority understand that a practical redevelopment plan is integral to the airport relocation effort since the proceeds from the sale and redevelopment of the existing site will provide an important revenue source for development of the replacement airport.
3. The City and Airport Authority have decided that it is prudent to retain a consultant to assist in the planning for redevelopment of the existing airport site.
4. The City and Airport Authority have jointly decided that it is in their mutual interest to retain the same team to assist in redevelopment planning as is currently engaged in program management services for development of the replacement airport. The Mead & Hunt team (which includes, among others, the firms of Hart Howerton, Jviation, Ruscitto/Lantham/Blanton Architecture and Power Engineers) was selected by the Airport Authority according to procedures approved by the Federal Aviation Administration ("FAA") for planning and professional services funded by federal grant funds. The Mead & Hunt team has expertise necessary to prepare a redevelopment plan that considers the needs of both the City and the Airport Authority.
5. The Airport Authority has determined, and FAA staff has concurred, that the redevelopment planning effort will provide an essential direct input necessary for the financial feasibility analysis that is being prepared for the replacement airport.
6. The redevelopment planning effort will be scoped as a separate set of tasks under the Airport Authority's work order and contract with the Mead & Hunt team. The scope of work and direction to the Mead & Hunt team for the redevelopment planning tasks will provide that:

- a. The Mead & Hunt team coordinate closely with the City ~~and the County~~;
  - b. The Mead & Hunt work product will be equally accessible to the City, the County and the Airport Authority and their respective staff;
  - c. The Mead & Hunt staff will take direction on these tasks jointly from Rick Baird and Beth Robrahn;
  - d. The principle underlying the redevelopment planning effort is to maximize the financial return upon sale of the existing airport site but to do so in a manner that is sensitive to the City's ~~and the County's~~ needs, policies and objectives.
7. The Airport Authority will fund the redevelopment planning effort to the extent allowed by applicable law and regulations.
  8. The Airport Authority will be responsible for all contractual and financial matters relating to the Mead & Hunt team and will be responsible for compliance with applicable FAA requirements and advisory circulars for FAA grant-funded projects.
  9. While it is expected that the scope of work for the Mead & Hunt team will include all tasks that the Airport Authority and the City ~~and the County~~ need for a redevelopment plan, it is possible that the City and the County may request additional work that is ~~needed only by the City or the County or that is~~ not eligible for FAA grant funding. If the City or the County requests such additional tasks, Mead & Hunt will separate those tasks on their invoice so the Airport Authority can make arrangements for payment from the ~~City or the County~~ entity requesting the additional work. In the event additional work is requested, the parties understand that the work contemplated in the Scope of Services for the Friedman Memorial Airport Redevelopment Plan and Feasibility Analysis shall not unduly delay the deliverables described in the Scope of Services.
  10. The City will be primarily responsible (with assistance from the Airport Authority, as needed) for coordination with the Friedman family interests and for public outreach and solicitation of public input into the redevelopment planning effort.
  11. In the event of any disagreement between or among the City, the Mead & Hunt team or the Airport Authority over the redevelopment planning effort, Rick Baird and Beth Robrahn will be responsible for meeting and resolving any dispute in a manner that respects the City's crucial role in this effort but complies with applicable FAA directives, policies or advisory circulars.
  12. The final redevelopment plan will become the joint property of the City, the County and the Airport Authority upon completion.

IN WITNESS WHEREOF, the City and Airport Authority having been duly authorized, have hereunto caused this Memorandum of Understanding to be executed, on the day and year first above written.

CITY

By \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk

AIRPORT AUTHORITY

By \_\_\_\_\_

COUNTY

By \_\_\_\_\_

Attest: \_\_\_\_\_

**Ned Williamson**

---

**From:** "Tom Bowman" <tbowman@co.blaine.id.us>  
**Date:** Monday, October 18, 2010 5:00 PM  
**To:** "Rick Baird" <rick@flyfma.com>  
**Cc:** "Ned Williamson" <wlo@cox-internet.com>; "Tim Graves" <tgraves@co.blaine.id.us>; <lschoen@co.blaine.id.us>; "Martha Burke" <martha@flyfma.com>; "susan mcbryant" <smcbryant1@hotmail.com>; "Ron Fairfax" <fafairfax@aol.com>  
**Attach:** Airport MOU re redevelopment planning (redlined)TB.doc  
**Subject:** Airport MOU re redevelopment planning (redlined)TB.doc

Rick,

I took the redline version you sent me from Ned and Tim, accepted all the changes, then added in redline some additional minor edits that I don't think changes the doc substantially.

Also added a county signature line.

TB

From Tom 10-18-10

**MEMORANDUM OF UNDERSTANDING**  
PLANNING FOR REDEVELOPMENT OF  
FRIEDMAN MEMORIAL AIRPORT SITE

1. The City of Hailey ("City"), Blaine County ("County") and the Friedman Memorial Airport Authority ("Airport Authority") have separately entered into an "Agreement for Development of the Replacement Airport and Redevelopment of the Friedman Memorial Airport," dated July 6, 2010 and recorded as Instrument No. 579244, records of the County Recorder, Blaine County, Idaho, which sets forth the City's, Airport Authority's and Blaine County's respective obligations and responsibilities in the planning for the replacement airport and for redevelopment of the existing airport site.
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5. The Airport Authority has determined, and FAA staff has concurred, that the redevelopment planning effort will provide an essential direct input necessary for the financial feasibility analysis that is being prepared for the replacement airport.
6. The redevelopment planning effort will be scoped as a separate set of tasks under the Airport Authority's work order and contract with the Mead & Hunt team. The scope of work and direction to the Mead & Hunt team for the redevelopment planning tasks will provide that:

- a. The Mead & Hunt team coordinate closely with the City;
  - b. The Mead & Hunt work product will be equally accessible to the City, the County and the Airport Authority and their respective staff;
  - c. The Mead & Hunt staff will take direction on these tasks jointly from Rick Baird and Beth Robrahn;
  - d. The principle underlying the redevelopment planning effort is to maximize the financial return upon sale of the existing airport site but to do so in a manner that is sensitive to the City's needs, policies and objectives.
7. The Airport Authority will fund the redevelopment planning effort to the extent allowed by applicable law and regulations.
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  12. The final redevelopment plan will become the joint property of the City, the County and the Airport Authority upon completion.

IN WITNESS WHEREOF, the City and Airport Authority having been duly authorized, have hereunto caused this Memorandum of Understanding to be executed, on the day and year first above written.

CITY

By \_\_\_\_\_

Attest: \_\_\_\_\_  
Clerk

AIRPORT AUTHORITY

By \_\_\_\_\_

COUNTY

By \_\_\_\_\_

Attest: \_\_\_\_\_

**Ned Williamson**

---

**From:** "Ned Williamson" <wlo@cox-internet.com>  
**Date:** Wednesday, October 20, 2010 11:42 AM  
**To:** "Graves Tim" <tgraves@co.blaine.id.us>; "Luboviski Barry" <bluboviski@cox-internet.com>; "Baird Rick" <rick@flyfma.com>  
**Attach:** Airport MOU re redevelopment planning (clean)10-20-10.doc  
**Subject:** MOU (Planning for Redevelopment of Friedman Memorial Airport Site)

Gentlemen,

I am enclosing the MOU for the funding of the master planning of the Friedman site. After the meeting between Larry, Tim, Fritz and me, I sent Tim a revised MOU. Larry then sent me a further revised MOU. Tom then sent another revised MOU, which incorporated Larry's revisions and corrected the spelling of Latham. I have accepted all of the county's revisions. In addition, I noted that the IN WITNESS WHEREOF line on the signature page did not include the County and stated that it was executed on the above date (which is not mentioned). So, I added the County and a blank date to this line. I am going to include the attached MOU in the Council's packet for approval on Monday, 10-25-10.

Please let me know if there are any further requested revisions. Thank you.

Ned

Ned C. Williamson, Esq.  
Williamson Law Office, PLLC  
115 Second Avenue South  
Hailey, Idaho 83333  
Ph. (208) 788-6688  
Fax (208) 788-7901

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- a. The Mead & Hunt team coordinate closely with the City;
  - b. The Mead & Hunt work product will be equally accessible to the City, the County and the Airport Authority and their respective staff;
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  12. The final redevelopment plan will become the joint property of the City, the County and the Airport Authority upon completion.

AGENDA ITEM SUMMARY

DATE: October 18, 2010

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: Second reading of Ordinance 1071

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On October 11, 2010, the Hailey City Council held a public hearing and considered the city initiated amendments to the Subdivision Ordinance related to the repeal of the Inclusionary Housing requirements. The Council approved the amendments and the first reading of Ordinance 1071 was conducted.

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:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

- |   |  |   |
|---|--|---|
| <input 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 type="checkbox"/> City Clerk               | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer        |
| <input type="checkbox"/> Building                 | <input 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:

Authorize the Mayor to conduct the second reading of Ordinance 1071 by title only.

ADMINISTRATIVE COMMENTS/APPROVAL:

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

ACTION OF THE CITY COUNCIL:

Date 10/18 - 2<sup>nd</sup> reading  
10/25 - 3<sup>rd</sup> reading

City Clerk Mary Cone

FOLLOW-UP:

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

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

## HAILEY ORDINANCE NO. 1071

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S SUBDIVISION ORDINANCE, ORDINANCE NO. 821, BY AMENDING SECTION 1 TO DELETE THE DEFINITIONS RELATED TO COMMUNITY HOUSING; AMENDING SECTION 3.1.1.1 TO DELETE THE REQUIREMENT OF AN INCLUSIONARY COMMUNITY HOUSING PLAN AS PART OF A PRELIMINARY PLAT APPLICATION, BY REPEALING SECTION 4.11; 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, there have been several Idaho district court decisions ruling that inclusionary housing requirements of a subdivision ordinance are unconstitutional or illegal;

WHEREAS, the Hailey City Council intends to amend the Hailey Subdivision Ordinance to be consistent with the Idaho district court decisions;

WHEREAS, the amendments will generally conform with 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 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 1, Definitions, of the Hailey Subdivision Ordinance No. 821, is hereby amended by deletion of the stricken language, as follows:

~~“Area Median Income (“AMI”).” The combined gross income for all persons living in a Dwelling Unit as calculated by the United States Department of Housing and Urban Development annually for Blaine County.~~

~~“Community Housing Fund.” An interest bearing account held in trust by the City for the creation of community housing for the benefit of the City.~~

~~“Community Housing Plan.” The plan that specifically describes the Market Rate Units and the Community Housing Units to be constructed in any development, or alternatives to Community Housing Units, and that is approved by the City in accordance with the standards set forth in Section 4.11.4 of this ordinance.~~

~~“Community Housing Unit.” Through a Deed Restriction, a Dwelling Unit that is restricted by size, type and/or cost, and that is for sale exclusively to individual(s) meeting income, occupancy~~

~~and/or other affordable community housing criteria established in a Community Housing Plan approved by the City of Hailey.~~

~~“Deed Restriction.” A method by which occupancy and resale of real property is controlled in a deed to create Community Housing Units.~~

~~“Income Category.” A grouping of household incomes based on a percentage of AMI.~~

- ~~—— Category 2: 51-60% of AMI~~
- ~~—— Category 3: 61-80% of AMI~~
- ~~—— Category 4: 81-100% of AMI~~
- ~~—— Category 5: 101-120% of AMI~~
- ~~—— Category 6: 121-140% of AMI~~

~~“Local Housing Authority.” An independent public body corporate and politic created under the Housing Authorities and Cooperation Law, Idaho Code Section 50-1901, et. seq., including the Blaine-Ketchum Housing Authority or other entity created by the City of Hailey, providing oversight, review and general assistance in the provision of Community Housing Units to the City.~~

~~“Market Rate Unit.” A Dwelling Unit in a residential or mixed use development that is not a Community Housing Unit.~~

Section 2. Section 3.1.1.1 of the Hailey Subdivision Ordinance No. 821, is hereby amended by the deletion of the stricken 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, open 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 City ordinance.

Section 3. Section 4, Development Standards, of the Hailey Subdivision Ordinance No. 821, is hereby amended by the repeal of Section 4.11 in its entirety.

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. Any and all portions of Hailey Ordinance No. 821 and any other ordinances, or parts thereof, conflicting with the revised regulations established herein 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 \_\_\_\_\_, 2010.

\_\_\_\_\_  
Richard L. Davis, Mayor, City of Hailey

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk

**AGENDA ITEM SUMMARY**

DATE: October 18, 2010

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: BL

**SUBJECT:** Second reading of Ordinance 1072

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

On October 11, 2010, the Hailey City Council held a public hearing and considered the city initiated amendments to the Zoning Ordinance related to Community Housing. The Council approved the amendments and the first reading of Ordinance 1072 was conducted.

**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:

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)**

- |   |  |   |
|---|--|---|
| <input 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 type="checkbox"/> City Clerk               | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer        |
| <input type="checkbox"/> Building                 | <input 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:**

Authorize the Mayor to conduct the second reading of Ordinance 1072 by title only.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**

Date 10/18 - 2<sup>nd</sup> Reading  
10/25 - 3<sup>rd</sup> Reading

City Clerk Mary Core

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

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

HAILEY ORDINANCE NO. 1072

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, AMENDING ARTICLE 2, DEFINITIONS, BY CHANGING AND ADDING DEFINITIONS OF TERMS RELATED TO COMMUNITY HOUSING; BY AMENDING ARTICLE 10 TO DELETE ANY REFERENCE TO SUBDIVISION ORDINANCE SECTION 4.11; 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. Article 2, Definitions, of the Hailey Zoning Ordinance No. 532, terms Community Housing Unit and Local Housing Authority are hereby amended by the deletion of the stricken language and the addition of the underlined language as follows:

Community Housing Unit. Through a Deed Restriction, a Dwelling Unit that is restricted by size, type and/or cost, and that is for sale or rent exclusively to individual(s) meeting income, occupancy and/or other affordable community housing criteria established in a Community Housing Plan approved by the City of Hailey.

Local Housing Authority. An independent public body corporate and politic created under the Housing Authorities and Cooperation Law, Idaho Code Section §§50-1901, *et. seq.*, including the Blaine-Ketchum County Housing Authority or other entity created by the City of Hailey, providing oversight, review and general assistance in the provision of Community Housing Units to the City.

Section 2. Article 2, Definitions, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the terms as follows:

Community Housing Fund. An interest bearing account held in trust by the City for the creation of community housing for the benefit of the City.

Community Housing Plan. The plan that specifically describes the Market Rate Units and the Community Housing Units to be constructed in any development, or alternatives to Community Housing Units, and that is approved by the City in accordance with standards and criteria adopted by the Local Housing Authority or as otherwise allowed by the Council.

Deed Restriction. A method by which occupancy and resale of real property is controlled in a deed to create Community Housing Units.

Income Category. A grouping of household incomes based on a percentage of AMI.

Category 2: 51-60% of AMI

Category 3: 61-80% of AMI

Category 4: 81-100% of AMI

Category 5: 101-120% of AMI

Category 6: 121-140% of AMI

Market Rate Unit. A Dwelling Unit in a residential or mixed use development that is not a Community Housing Unit.

Section 4. Article 10, Planned Unit Development, Section 10.3.8 of the Hailey Zoning Ordinance No. 532, is hereby amended by the deletion of the stricken language:

10.3.8 Each PUD shall provide one (1) or more of the following amenities, commensurate with the size and density of the development, and commensurate with the modifications requested by the applicant, to ensure a public benefit:

a. Green Space. All Green Space shall be granted in perpetuity and the PUD agreement shall contain restrictions against any encroachment into the Green Space. Where a subdivision is involved as part of the PUD approval process, Green Space shall be identified as such on the plat. A long-term maintenance plan shall be provided. Unless otherwise agreed to by the City, the PUD agreement shall contain provisions requiring that property owners within the PUD shall be responsible for maintaining the Green Space for the benefit of the residents or employees of the PUD and/or by the public. Green space shall be set aside in accordance with the following formulas:

1. For residential PUD's: a minimum of .05 acres per residential unit.

2. For non-residential PUD's: a minimum of 15% of the gross area of the

proposed PUD.

b. Active recreational facilities. Active recreational facilities include amenities such as a swimming pool, tennis courts or playing fields, of a size appropriate to the needs of the development. The PUD agreement shall contain provisions requiring that such facilities be maintained in perpetuity, or replaced with another similar recreation facility.

c. Public transit facilities. Public transit facilities include a weather-protected transit stop or transit station, and must be located on a designated transit route.

d. Preservation of Vegetation. Preservation of significant existing vegetation on the site must include the preservation of at least 75% of mature trees greater than 6-inch caliper on the site.

e. Wetlands. Protection of significant wetlands area must constitute at least 10% of the gross area of the proposed PUD.

f. River enhancement. Enhancement of the Big Wood River and its tributaries, must include stream bank restoration and public access to or along the waterway.

g. Community Housing. For residential PUD's, the provision of at least thirty percent (30%) of the approved number of dwelling units or lots as Community Housing Units affordable to households earning between 50% and 120% of the Area Median Income ~~(the 30% would include the 20% community housing required for a subdivision established by Section 4.11 of the Subdivision~~

Ordinance), or the provision of at least twenty percent (20%) as Community Housing Units affordable to households earning less than 50% of the Area Median Income.

h. Real Property. Dedication or conveyance of real property or an interest in real property to the City.

i. Sidewalks. Off-site sidewalk improvements shall be constructed according to City Standard Improvement Drawings and provided (in addition to sidewalk improvements that are required by ordinance adjacent to the subject property) in accordance with the following formulas:

1. For residential PUD's: a minimum of 100 linear feet per residential unit.

2. For non-residential or mixed-use PUD's: a minimum of 100 linear feet per 1000 square feet of gross floor area.

j. Underground Parking. Underground parking must be provided for at least 50% of the required number of parking spaces in the PUD.

k. Energy Conservation. All principal buildings within the PUD must comply with sustainable building practices, as follows:

1. For residential PUD's: buildings comply with local "Built Green" standards for certification, federal EPA "Energy Star" program, or Leadership in Energy and Environmental Design - Homes (LEED-H) standards for basic certification.

2. For non-residential or mixed-use PUD's: buildings comply with Leadership in Energy and Environmental Design (LEED) standards for basic certification.

l. Other Amenities. Other project amenities and/or benefits to the community that are found, by recommendation of the Commission and approval of the Council, to promote the purpose of this Article and the goals and objectives of the Comprehensive Plan.

Section 5. Article 10, Planned Unit Development, Section 10.4.1 of the Hailey Zoning Ordinance No. 532, is hereby amended by the deletion of the stricken language:

10.4.1 Density Bonus. The following maximum increases in density may be granted only if one of the following conditions are met, and if no other density increase has been granted (~~e.g., for Community Housing Units under Section 4.11 of the Subdivision Ordinance~~):

a. Ten percent (10%): Solar, wind, geothermal, or other alternative renewable energy source will provide at least fifty percent (50%) of the total energy needs of the PUD.

b. Ten percent (10%): At least twenty five percent (25%) of the property included in the PUD is located in the floodplain and no development occurs within the floodplain.

c. Ten percent (10%): The developer of the PUD provides or contributes to significant off-site infrastructure benefiting the City, (e.g., water tank, fire station).

d. Twenty percent (20%): The developer of the PUD provides or contributes to significant multi-modal infrastructure providing both vehicular and non-vehicular amenities benefiting the City and Wood River Valley.

e. Ten percent (10%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Silver certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

f. Fifteen percent (15%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Gold certification. The bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

g. Twenty percent (20%): The non-residential or mixed-use PUD complies with Leadership in Energy and Environmental Design (LEED) standards for Platinum certification. The

bonus unit(s) shall not be constructed until a later phase, after actual certification for prior phase(s) is achieved.

h. Density bonuses for project amenities and benefits to the community other than those listed here may be granted by unanimous vote of the Council, following a recommendation by the Commission, in order to carry out the purpose and intent of this Article and the land use policies of the City.

Section 6. 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 7. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 8. 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 \_\_\_\_\_, 2010.

\_\_\_\_\_  
Richard L. Davis, Mayor, City of Hailey

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk

Publish: Idaho Mountain Express \_\_\_\_\_, 2010

**AGENDA ITEM SUMMARY**

DATE: October 18, 2010 DEPARTMENT: PW DEPT. HEAD SIGNATURE: TH

SUBJECT: Second reading of Ordinance 1073

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

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

On October 11, 2010, the Hailey City Council held a public hearing and considered the city initiated amendments to the Wastewater Ordinance (Chapter 13.04) regarding freezing water protection and the first reading of Ordinance 1073 was conducted.

**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: \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)**

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

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Authorize the Mayor to conduct the second reading of Ordinance 1073 by title only.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**

Date 10/18 - 2<sup>nd</sup> Reading  
10/25 - 3<sup>rd</sup> Reading

City Clerk Mary Cone

**FOLLOW-UP:**

\*Ord./Res./Agmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

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

AGENDA ITEM SUMMARY

DATE: October 18, 2010 DEPARTMENT: PW DEPT. HEAD SIGNATURE: TH

**SUBJECT:** Second reading of Ordinance 1073

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

On October 11, 2010, the Hailey City Council held a public hearing and considered the city initiated amendments to the Wastewater Ordinance (Chapter 13.04) regarding freezing water protection and the first reading of Ordinance 1073 was conducted.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Casele # \_\_\_\_\_  
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"/> Safety Committee |
| <input checked="" 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"/> Engineer                 | <input checked="" type="checkbox"/> Public Works, Parks | _____                                     |
| <input type="checkbox"/> Fire Dept.               | <input type="checkbox"/> P & Z Commission               | _____                                     |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Authorize the Mayor to conduct the second reading of Ordinance 1073 by title only.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**  
Date 10/18 - 2<sup>nd</sup> Reading  
10/25 - 3<sup>rd</sup> Reading  
City Clerk Mary Cone

**FOLLOW-UP:**  
\*Ord./Res./Agmt./Order Originals: Record \*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (all info.): \_\_\_\_\_ Copies (AIS only)  
Instrument # \_\_\_\_\_



HAILEY ORDINANCE NO. 1073

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTIONS 13.04.130(B) AND (D) OF THE HAILEY MUNICIPAL CODE TO PROVIDE FOR AN ALTERNATIVE CALCULATION OF METERED WASTEWATER USER FEES FOR CONTINUAL AND INTERMITTENT USE OF WATER NEEDED TO PREVENT FROZEN PIPES DURING THE WINTER MONTHS; BY PROVIDING FOR A REPEALER CLAUSE; BY PROVIDING FOR A SEVERABILITY 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 amend the Hailey Municipal Code to establish procedures for adjusting wastewater fees;

WHEREAS, the procedures imposed by this ordinance have been studied and recommended by the City Engineer and are intended to be reasonably related to the benefit conveyed to the residents of the City of Hailey;

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 13.04.130(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:

B. Wastewater User Fees.

1. User Base Fee. The monthly user base fee is intended to cover the 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 100% of the 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 and maintenance 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 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 during the months of November through April. During the month of May the monthly wastewater metered charge shall be adjusted based upon the average use of water during the months of



November through April used by each Property except as provided under Section 13.04 130(D)(3).

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 requirement 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 water service connection. Bond payment fees will continue even if sewer services are discontinued at any point.

**Section 2.** Section 13.04.130(D) 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:

D. Reduction in Metered Water and Wastewater Fees.

1. Leak in Private Water Service Line or within a Building. In the event a leak is discovered in a Private Water Service Line or in a private water service line in a building and the City is notified of the leak or the City notifies the Water User of the leak, the metered water fee and the metered wastewater fee shall be eligible for a credit for a period beginning 30 days before the City is notified or the City sends notification until sixty (60) days following the notification (the "Credit Period"), provided the leak is repaired during the sixty (60) day period following notification, except as otherwise provided herein. If the leak is not repaired during the sixty (60) day period following notification, the Water User shall not be entitled to any reduction in the metered water fee and the metered wastewater fee, and the water and wastewater metered fee during the Credit Period shall be calculated based on the Water User's water usage during the same period of the previous year, or the actual metered quantity, whichever is less. If the leak is repaired between thirty (30) days and sixty (60) days following notification the metered water fee and metered wastewater fee during the Credit Period shall be based on the following:

[(the actual metered usage) – (the Water User's water usage during the same period of the previous year)] X 50%, or the actual metered quantity, whichever is less.

The Water User has the burden to notify the City when the leak is repaired.

Exceptions:

- a. If a leak is discovered in a Private Water Service Line between December 1 and April 15 of the following year, the thirty (30) and sixty (60) day periods described above to repair a leak shall begin on April 15 and the Credit Period as defined above shall be modified so that the Credit Period begins 30 days before the City is notified or the City sends notification, until June 14.
- b. If a leak is discovered in a Private Water Service Line and if the Water User is unable to repair the leak because a private contractor did not perform the repair within sixty (60) days following notification to the City, the metered water fee and

metered wastewater fee to be charged to the Water User who provides water for the period of time between the date of notification and the date water is no longer provided to the Water User whose water service was disrupted during same period of the previous year, or a water usage of 6000 gallons per month, whichever is less. In such a case, the metered water fee and the metered wastewater fee to be charged to the Water User whose water service was disrupted shall be based on the Water User's water usage during the same period of the previous year or on a water usage of 6000 gallons per month, whichever is less.

2. Provision of Water to Neighboring Water User. In the event water service is disrupted to a Water User based on a frozen Private Water Service Line between December 1 and April 15 of the following year, and a Water User provides water from the Municipal Water System to the Water User whose water service was disrupted following notification to the City, the metered water fee and the metered wastewater fee to be charged to the Water User who provides water for the period of time between the date of notification and the date water is no longer provided to the Water User whose water service was disrupted (which shall not extend beyond April 15) shall be based on the water usage by the Water User whose water service was disrupted during the same period of the previous year, or a water usage of 6000 gallons per month, whichever is less. In such a case, the metered water fee and the metered wastewater fee to be charged to the Water User whose water service was disrupted shall be based on the Water User's water usage during the same period of the previous year or on a water usage of 6000 gallons per month, whichever is less.

3. Freeze Protection. Subject to the requirements set forth herein, ~~in the event water usage for a Water User exceeds 6000 gallons per month between December 1, 2006 and April 15, 2008, based on allowing water is required to continually or intermittently run to prevent frozen pipes in a Private Water Service Line between November 1 and March 31 of the following year and if the City is notified of the continual or intermittent use of water, the metered water and wastewater fee for the period of time between the date of notification and date water was not continually or intermittently run shall be based on the Water User's water usage as metered or 6000 gallons per month, whichever is less. The Owner shall not run the freeze protection water into the Wastewater system and shall provide proof satisfactory to the City that water is not run into the Wastewater system. If the Owner does not provide notification of the need to run water for freeze protection and proof that the water, which is continually or intermittently run, is not discharged into the Wastewater system, then there shall be no adjustment of the metered Wastewater fee. The provisions allowing for a reduction of Wastewater fees for freeze protection do not relieve an Owner from paying for the water used for freeze protection. The provisions of this Section 13.04.130(D)(3) shall be effective through April 15, 2008, at which time the provisions of this Section 13.04.130(D)(3) shall terminate and become null and void.~~

**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 \_\_\_\_\_, 2010.

\_\_\_\_\_  
Richard L. Davis, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
Mary Cone, City Clerk

Publish Summary: Idaho Mountain Express \_\_\_\_\_, 2010

