

**AGENDA ITEM SUMMARY**

**DATE:** 11/23/2009    **DEPARTMENT:** Finance    **DEPT. HEAD SIGNATURE:** MHC

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**SUBJECT**

2<sup>nd</sup> Reading of Ordinance 1035 - franchise ordinance with Cox Cable Company

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**AUTHORITY:**    ID Code 50-329     IAR \_\_\_\_\_     City Ordinance/Code \_\_\_\_\_

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**BACKGROUND:**

This franchise ordinance was introduced on September 28, 2009. On September 16, 2009 the legal notice and proposed ordinance was published in the Idaho Mountain Express. Following the September 28<sup>th</sup> meeting was a 30 day waiting period before council accepted the agreement and authorized the 1<sup>st</sup> Reading of the Ordinance on November 9, 2009.

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**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:**

Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_

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**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:**

\_\_\_\_ City Attorney    \_\_\_\_ Clerk / Finance Director    \_\_\_\_ Engineer    \_\_\_\_ Mayor  
\_\_\_\_ P & Z Commission    \_\_\_\_ Parks & Lands Board    \_\_\_\_ Public Works    \_\_\_\_ Other

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**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Conduct the 2<sup>nd</sup> Reading on November 23, 2009.

Authorize the Mayor to conduct 3<sup>rd</sup> Reading and sign the Ordinance on December 14, 2009.

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**FOLLOW UP NOTES:**

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## HAILEY ORDINANCE NO. 1035

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 5.32 OF THE HAILEY MUNICIPAL CODE WHICH AUTHORIZES THE IMPOSITION OF CERTAIN NON-PROPERTY TAXES, TO-WIT: A THREE PERCENT (3%) TAX ON RENTAL VEHICLE AND ON HOTEL-MOTEL OCCUPANCY CHARGES, A TWO PERCENT (2%) TAX ON RETAIL SALE OF LIQUOR BY-THE-DRINK, AND A ONE PERCENT (1%) TAX ON THE SALE OF RESTAURANT FOOD, TO PROVIDE FOR A TWENTY YEAR DURATION OF THE NON-PROPERTY TAXES EFFECTIVE ON JULY 1, 2010 AND TO DELETE THE AUTHORITY OF A RETAILER TO RETAIN ANY TAX IN EXCESS OF THE AMOUNT COLLECTED IN SECTION 5.32.030(E) OF THE HAILEY MUNICIPAL CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Mayor and Hailey City Council find that the City derives the major portion of its economic well-being from people catering to recreational needs;

WHEREAS, the Mayor and Hailey City Council find that the City has a significant economic dependence upon visitors and travelers passing through or staying in the city;

WHEREAS, the Mayor and Hailey City Council find that visitors and travelers to the City of Hailey require municipal services which place an undue burden upon City taxpayers;

WHEREAS, the Mayor and Hailey City Council find that the volume of visitors has increased the impact on City services, including emergency response services, and increased the impact on City parks, streets and other City infrastructure;

WHEREAS, in 2006, the voters of the City of Hailey adopted a local option tax providing for a three percent (3%) tax on rental vehicle and hotel-motel occupancy charges, a two percent (2%) tax on retail sale of liquor by-the-drink, and a one percent (1%) tax on the sale of restaurant food for a four (4) year period; and

WHEREAS, on November 3, 2009, the voters of the City of Hailey adopted a local option tax providing for a three percent (3%) tax on rental vehicle and hotel-motel occupancy charges, a two percent (2%) tax on retail sale of liquor by-the-drink, and a one percent (1%) tax on the sale of restaurant food for a twenty (20) year period effective on July 1, 2010; and

WHEREAS, the Mayor and the Hailey City Council find that the local option tax approved in 2006 and 2009 has been beneficial to the residents of the City of Hailey and that the local option tax approved in 2006 should be extended for a twenty (20) year term with the effective date of this ordinance to begin on July 1, 2010.

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

**SECTION 1.** Section 5.32.030(E) of the Hailey Municipal Code is amended by the deletion of the stricken language, as follows:

5.32.030 Imposition of Certain Non-Property Taxes. The City hereby imposes and shall collect certain non-property taxes as follows:

(E) Fractional Portion: When the Sales Price involves a fraction of a dollar, the non-property tax shall be collected on that fractional portion of the price adding thereto the tax based upon the following bracket system:

Rental Vehicle and Hotel-Motel Occupancy Taxes (3%)

\$0.01	to	\$0.24	\$0.00
.25	to	.49	0.01
.50	to	.74	0.02
.75	to	.99	0.03

(Each whole dollar \$0.03)

Liquor By-The-Drink Tax (2%)

\$0.01	to	\$0.33	\$0.00
.34	to	.66	0.01
.67	to	.99	0.02

(Each whole dollar \$0.02)

Restaurant Food Tax (1%)

\$0.01	to	\$0.49	\$0.00
.50	to	.99	0.01

(Each whole dollar \$0.01)

The retailer shall calculate the tax upon the entire amount of purchases of the consumer made at a particular time subject to this ordinance, and not separately upon each item purchased. ~~The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the City during the period as compensation for the work of collecting the tax.~~

**Section 2.** Section 5.32.040 of the Hailey Municipal Code is amended by the addition of the underlined language and the deletion of the stricken language, as follows:

5.32.040 Duration of Taxes. The non-property taxes authorized and collected under this ordinance are hereby imposed for a duration of ~~four (4)~~ twenty (20) years from the effective date of this ordinance.

**Section 3. 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 4. REPEALER CLAUSE.** All Ordinances or Resolutions or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect on July 1, 2010, and 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 \_\_\_\_\_, 2009.

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

Attest:

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

Published: Idaho Mountain Express –

AGENDA ITEM SUMMARY

DATE: 11/9/2009

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Ordinance No. 1040 (Amendment to Chapter 10.08, Parking Ordinance)

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

After your last council meeting, I revised the parking ordinance to reflect the changes approved by the council. I have attached a redlined version showing the changes and a clean version. If you have any questions, please contact me. Thank you.

Ned

**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:

If the revisions are acceptable, make a motion authorizing the mayor to conduct a second reading of Hailey Ordinance No. 1040.

FOLLOW-UP REMARKS:

11/9 - Council authorized 2<sup>nd</sup> Reading of Ord. 1040  
with amendments.  
11/23 - 3<sup>rd</sup> Reading  
11/25 - publish Idaho Non Express

## HAILEY ORDINANCE NO. 1040

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 10.08 OF THE HAILEY MUNICIPAL CODE BY REPEALING CHAPTER 10.08 AND BY REPLACING IT WITH A NEW CHAPTER 10.08, TO CREATE A PURPOSE SECTION, TO ESTABLISH DEFINITIONS, TO ESTABLISH AND REGULATE LOADING ZONES, TO ESTABLISH PARKING RESTRICTIONS, TO REGULATE REMOVAL, IMPOUNDMENT AND RETURN OF VEHICLES, TO PROVIDE AN INTERPRETATION CLAUSE AND TO PROVIDE A PENALTY PROVISION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and the City Council of the City of Hailey desire to update the parking regulations of the Hailey Municipal Code; and

WHEREAS, the Mayor and the City Council of the City of Hailey believe it is in the best interest of the citizens of Hailey to repeal Chapter 10.08 of the Hailey Municipal Code, to replace it with a new Chapter 10.08, to improve parking restrictions within the City of Hailey and to clarify the penalties for a violation of Chapter 10.08 of the Hailey Municipal Code.

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

**Section 1.** Chapter 10.08 of the Hailey Municipal Code is hereby amended by the repeal of Chapter 10.08 in its entirety and by the addition of a new Chapter 10.08, as follows:

10.08.010 Purpose. This chapter is intended to create reasonable regulations and restrictions to allow for safe snow removal and street cleaning within the Rights-of-Way, to provide for convenient and safe travel of vehicles and persons on Rights-of-Way, and to promote businesses within the City of Hailey.

10.08.020 Definitions. For purposes of this chapter the words and phrases defined in this section mean as follows:

"Bus Loading Zone" shall mean a space or section of a public right of way which has been set aside for the exclusive purpose of loading and unloading property and persons onto or from a bus.

"Parking" shall mean the leaving of any motor vehicle unattended for any purpose, other than an emergency, and the temporary loading and unloading of vehicles.

"Right-of-Way" shall mean any property owned by, or dedicated to, the city of Hailey for the purposes of providing city services and general circulation to the public. Such rights-of-way include, but are not limited, the following: public streets, alleys and sidewalks.

10.08.030 Establishment and Regulation of Bus Loading Zones. A Bus Loading Zone shall be established by the City Council along a Right-of-Way by the adoption of a resolution by the City Council and by the installation of appropriate signage near the Bus Loading Zone. It is

unlawful for the driver of any vehicle to stop, stand or park a vehicle within any place marked as a Bus Loading Zone, except while actively engaged in the expeditious loading or unloading of persons or property, but in no case shall the stopping, standing or parking for the loading or unloading exceed ten (10) minutes.

10.08.040 Parking Regulations

Deleted: strictions

A. General. It is lawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper in any Right-of-Way, except as otherwise provided in this Chapter 10.08 or other provision of the Hailey Municipal Code.

Deleted: Restrictions

Deleted: un

Deleted: or to obstruct in any way, method or manner any Right-of-Way,

B. Year Round Day Time Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper on Main Street between McKercher Boulevard and Maple Street, on Broadford Road from Cedar Street to the City of Hailey city limits or on Bullion and Croy Streets between First Avenue and River Street for any period exceeding two hours between the hours of 9:00 a.m. and 6:00 p.m. The city shall install signs upon Main Street, Broadford Road, Bullion Street and Croy Street within or adjacent to the restricted parking zones showing the hours of limited parking.

C. Year Round Night Time Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper on Main Street between McKercher Boulevard and Maple Street between the hours of two a.m. to six a.m. The city shall install signs upon Main Street within or adjacent to the restricted parking zone showing the hours of limited parking.

D. Winter Restrictions. For any Right-of-Way with a paved street abutting an improved curb and gutter, it is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper within the Right-of-Way between the hours of 12:00 a.m. (midnight) to 7:00 a.m., each day from November 1<sup>st</sup> of each year to May 1<sup>st</sup> of the following year. For any Right-of-Way without a paved street abutting an improved curb and gutter, it is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper within six feet (6') of the edge of asphalt constructed by or on behalf of the City of Hailey within the Right-of-Way between the hours of 12:00 a.m. (midnight) to 7:00 a.m., each day from November 1<sup>st</sup> of each year to May 1<sup>st</sup> of the following year. The city shall install signs at the vehicular entrances to the City of Hailey showing the hours of limited parking. For all other portions of Rights-of-Way, it is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper on a Right-of-Way in such a manner as to interfere with the safe and proper plowing or removal of snow on the Right-of-Way.

Deleted: 8

E. City Parking Lots Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper upon property owned by the City of Hailey, except where designated as a city-wide parking area.

F. Access Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper on in or across any private driveway, or in those areas

prohibited by the Mayor or City Council, including areas in front of gasoline pumps or driveways to garages or service stations.

G. Fire Hydrant Restrictions. It is unlawful for any person to park in a Right-of-Way a motorized vehicle or non-motorized vehicle, trailer or camper within twenty feet (20') of any fire hydrant, or within any area marked or posted as a no parking zone by a fire hydrant.

H. Type of Parking Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper on any portion of Main Street, unless the parking is at an angle parallel to the curb so that the passenger side of the vehicle, trailer or camper is not more than one foot (1') from the curb and so that the vehicle, trailer or camper is within a parking lane or space marked on the street or curb by or under the authority of the Mayor and City Council. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper within a Right-of-Way other than Main Street, unless the parking shall be parked parallel or at an oblique angle, in accordance with any signs posted under the authority of the Mayor and City Council.

I. Parking Line Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper over any parking lines within a Right-of-Way where such parking lines have been established by the Mayor or City Council.

10.08.050 Interpretation. In the event specific provisions of this Chapter conflict, the most restrictive provisions shall govern and control.

10.08.060 Removal, Impoundment and Return of Vehicles.

A. Members of the Hailey police department are authorized to remove or have removed a vehicle, trailer or camper from a Right-of-Way to a place designated by the police department or otherwise maintained by the City of Hailey, when such vehicle, trailer or camper is parked in violation of Section 10.08.040(D) of the Hailey Municipal Code.

B. No person shall recover any vehicle, trailer or camper removed in accordance with this section except as provided herein. Before the owner or person in charge of such vehicle, trailer or camper shall be allowed to recover it from the place where it has been placed or impounded, the person shall i) present to the City of Hailey or its agent holding and in charge of such vehicle, trailer or camper evidence of the person's identity, and evidence of the right to possession of the vehicle, trailer or camper, ii) sign a receipt for its return, iii) pay the cost of removal, and iv) pay any cost of storage accrued. Until paid, the impound charges under this section shall constitute a lien upon the vehicle, trailer or camper which may be enforced in the same manner as a garage keepers lien in accordance with the provisions of Idaho law. All expenses of towing and storage shall be expenses of the owner of the vehicle, trailer or camper.

C. It is unlawful for any person to remove any vehicle, trailer or camper impounded under the authority of this section without payment for removal and storage of the vehicle, trailer or camper.

10.08.070 Violations-Penalties.

A. In addition to any fees or charges authorized by Section 10.08.060 of the Hailey Municipal Code, every person who violates any provision of Section 10.08.040(D) of the Hailey Municipal Code shall be deemed guilty of an infraction and shall be subject to a penalty of fifty dollars (\$50.00) per violation, per day.

B. Except as otherwise provided in Section 10.08.070(A) of the Hailey Municipal Code, every person who violates any provision of Chapter 10.08 of the Hailey Municipal Code shall be deemed guilty of an infraction and shall be subject to a penalty of ten dollars (\$10.00) per violation, per day, and a penalty of thirty-five dollars (\$35.00) per violation, per day for a second and subsequent offense within a calendar year. Each parking space used in violation of this section shall constitute a separate infraction.

**Section 2.** 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 3.** All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 4.** This Ordinance shall be in full force and effect from and 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 \_\_\_\_\_, 2009.**

\_\_\_\_\_  
Richard L. Davis, Mayor

Attest:

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

**HAILEY ORDINANCE NO. 1040**

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A. General. It is lawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper in any Right-of-Way, except as otherwise provided in this Chapter 10.08 or other provision of the Hailey Municipal Code.

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I. Parking Line Restrictions. It is unlawful for any person to park a motorized vehicle or non-motorized vehicle, trailer or camper over any parking lines within a Right-of-Way where such parking lines have been established by the Mayor or City Council.

10.08.050 Interpretation. In the event specific provisions of this Chapter conflict, the most restrictive provisions shall govern and control.

10.08.060 Removal, Impoundment and Return of Vehicles.

A. Members of the Hailey police department are authorized to remove or have removed a vehicle, trailer or camper from a Right-of-Way to a place designated by the police department or otherwise maintained by the City of Hailey, when such vehicle, trailer or camper is parked in violation of Section 10.08.040(D) of the Hailey Municipal Code.

B. No person shall recover any vehicle, trailer or camper removed in accordance with this section except as provided herein. Before the owner or person in charge of such vehicle, trailer or camper shall be allowed to recover it from the place where it has been placed or impounded, the person shall i) present to the City of Hailey or its agent holding and in charge of such vehicle, trailer or camper evidence of the person's identity, and evidence of the right to possession of the vehicle, trailer or camper, ii) sign a receipt for its return, iii) pay the cost of removal, and iv) pay any cost of storage accrued. Until paid, the impound charges under this section shall constitute a lien upon the vehicle, trailer or camper which may be enforced in the same manner as a garage keepers lien in accordance with the provisions of Idaho law. All expenses of towing and storage shall be expenses of the owner of the vehicle, trailer or camper.

C. It is unlawful for any person to remove any vehicle, trailer or camper impounded under the authority of this section without payment for removal and storage of the vehicle, trailer or camper.

10.08.070 Violations-Penalties.

A. In addition to any fees or charges authorized by Section 10.08.060 of the Hailey Municipal Code, every person who violates any provision of Section 10.08.040(D) of the Hailey Municipal Code shall be deemed guilty of an infraction and shall be subject to a penalty of fifty dollars (\$50.00) per violation, per day.

B. Except as otherwise provided in Section 10.08.070(A) of the Hailey Municipal Code, every person who violates any provision of Chapter 10.08 of the Hailey Municipal Code shall be deemed guilty of an infraction and shall be subject to a penalty of ten dollars (\$10.00) per violation, per day, and a penalty of thirty-five dollars (\$35.00) per violation, per day for a second and subsequent offense within a calendar year. Each parking space used in violation of this section shall constitute a separate infraction.

**Section 2.** 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 3.** All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 4.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS 23<sup>rd</sup> DAY OF NOVEMBER, 2009.**

\_\_\_\_\_  
Richard L. Davis, Mayor

Attest:

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

