

HAILEY ORDINANCE NO. 1031

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, REPEALING CHAPTERS 8.04 AND 8.08 OF THE HAILEY MUNICIPAL CODE, AND REPLACING CHAPTER 8.04 OF THE HAILEY MUNICIPAL CODE TO PROVIDE A PURPOSE SECTION, TO PROVIDE DEFINITIONS, TO ENUMERATE SPECIFIC NUISANCES, TO ESTABLISH A NUISANCE ABATEMENT NOTICE, TO REQUIRE ABATEMENT OF A NUISANCE, TO PROVIDE AN APPEAL PROCESS, TO ALLOW THE COLLECTION OF ABATEMENT COSTS BY THE CITY, TO ESTABLISH PROHIBITED ACTS, AND TO PROVIDE A PENALTY PROVISION FOR VIOLATIONS OF CHAPTER 8.04 OF THE HAILEY MUNICIPAL CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Hailey has previously adopted Chapter 8.08 of the Hailey Municipal Code, which regulates the public nuisances;

WHEREAS, in order to promote the health, safety and welfare of the general public, the Mayor and the City Council of the City of Hailey desire to amend Title 8 of the Hailey Municipal Code by repealing Chapter 8.08 and replacing it with a new Chapter 8.04, to provide for regulation of public nuisances;

WHEREAS, the City of Hailey also desires to amend Chapter 8.08 of the Hailey Municipal Code to provide for a procedure to abate public nuisances; and

WHEREAS, the City of Hailey also desires to consolidate the Chapters 8.04 and 8.08 into a new Chapter 8.04.

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

Section 1. Chapters 8.04 and 8.08 of the Hailey Municipal Code are hereby repealed in their entirety and replaced with a new Chapter 8.04, as follows:

Chapter 8.04

HEALTH AND SAFETY

Sections:

- 8.04.010 Purpose
- 8.04.020 Definitions
- 8.04.030 Nuisances Enumerated
- 8.04.040 } Nuisance Abatement Notice
- 8.04.050 Abatement Required
- 8.04.060 Appeal
- 8.04.070 Abatement by City—Costs
- 8.04.080 Prohibited Acts
- 8.04.090 Violation—Penalty

8.04.010 Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare by regulating public nuisances within the city, by providing for the abatement of such nuisances, by prohibiting those conditions that create health or safety hazards, by prohibiting those conditions which interfere with the enjoyment of public or private property, by controlling the deposit and burning of litter, and by prohibiting littering.

8.04.020 Definitions. For purposes of this Chapter 8.04, the following capitalized words and phrases shall apply as defined herein:

“Building Materials” shall mean and include lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

“Designated Parking Space” shall mean a platted parking space or an improved parking space used to park vehicles, trailers and campers, primarily consisting of gravel, pavement, concrete, pavers or similar materials, but not consisting primarily of dirt or grass.

“Garbage” includes all putrescible waste, except sewage and body waste, including waste from accumulated animal food or vegetable matter, and including waste that attends the preparation, use, cooking, dealing in or storing meat, fish, fowl, fruit and vegetables that shall include all of such wastes or accumulations of vegetable matter of residences, restaurants, hotels and places where food is prepared for human consumption. Garbage shall not include recognized industrial by-products.

“Garbage Container” shall mean any and all containers and cans used for the storage and/or collection of waste, Refuse, Garbage and/or Rubbish.

“Junk” shall mean all appliances or parts thereof, all parts of motor vehicles, tires, all iron or other metal, plastics, glass, paper, cardboard, rubber, lumber, wood (excepting stacked firewood), mattresses, disabled trailers or parts thereof, all of which meet one of the following requirements:

- (a) Are discarded;
- (b) Are unusable;
- (c) Are broken; or
- (d) Have not been used for their primary and original purpose for a period of six months.

“Noxious Weeds” shall be as defined by Idaho Code § 22-2402, as amended, and the Idaho Administrative Rules.

“Nuisance” shall mean any condition or use of property which a) injures or endangers the comfort, health or safety of others, b) is indecent, or offensive to the senses, c) obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, stream, canal, or basin, or any public park, square, street, alley, sidewalk or highway, or d) is enumerated to be a Nuisance by Section 8.04.030 of the Hailey Municipal Code.

“Owner” and “Occupant,” wherever used in this chapter, may be used interchangeably, and shall mean every person in possession, charge or in control of any dwelling, flat, roominghouse, or any eating place, shop, place of business, manufacturing or business establishment where Garbage or other Refuse is created or accumulated.

“Public Place” 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 to public streets, alleys and sidewalks.

“Refuse” shall mean solid wastes, including Garbage and Rubbish.

“Rubbish” shall mean Refuse other than Garbage, tin cans, bottles, leaves, weeds and cuttings from trees, lawns, shrubs, and gardens or other waste materials produced in the normal course of doing business, or everyday living. Rubbish shall not include recognizable industrial by-products.

“Street Tree” shall mean any tree, shrub, or other woody vegetation on lands within City of Hailey street rights-of-way.

“Waste” means unwanted solid, liquid, or gaseous materials.

8.04.030 Nuisances Enumerated. Without limitation of the generality of the definition of Nuisance, the following acts, omissions, conditions and things are declared to be and constitute a Nuisance:

- (1) Storing or accumulating, or permitting the storage or accumulation, of Junk on any premises where the Junk is exposed to view from any Public Place, or adjacent property.
- (2) ~~Except as otherwise provide, the storing or accumulating, or permitting the storage or accumulation, of automobiles, trucks or other motor vehicles, or trailers or campers on any property where such vehicles, trailers or campers are exposed to view from any Public Place or adjacent property; provided, however, parking of vehicles, trailers and campers on Designated Parking Spaces and the occasional parking of vehicles, trailers and campers on property not on Designated Parking Spaces for purposes of delivery or maintenance shall not be considered a Nuisance.~~
- (3) The accumulation, or permitting the accumulation of tin cans, bottles, trash, litter, Waste or Refuse of any nature on any premises, or any dangerous accumulation of Noxious Weeds, trash, dirt, filth or yard trimmings, except in Garbage Containers maintained for regular collection. Regularly maintained compost piles shall not be considered a Nuisance.
- (4) ~~3~~ Permitting the existence of i) any dilapidated, abandoned or partially destroyed building or structure, or ii) any unused building or structure which is not properly secured from entry, or failing to materially complete the exterior of any building or structure commenced and left unfinished after the expiration of a valid building permit.
- (4) ~~5~~ Storing, or permitting to be stored, any toxic, radioactive, caustic, flammable, explosive or other dangerous or hazardous substances, except when stored in compliance with the requirements of all regulatory agencies having jurisdiction.
- (5) ~~6~~ Permitting the existence of any putrid, unsound or unwholesome bones, meat, hides or skins, or the whole or any part of any dead animal, fish or fowl.
- (6) ~~7~~ Privies, vaults, cesspools, sumps, pits, excavations or like places which are not

securely protected, or which are foul or malodorous.

(78) Leaving or permitting to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling, or other structure, under the control of any person, and in a place accessible to the public, any abandoned, unattended or discarded icebox, freezer, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing such door or lid, snap lock or other locking device from such icebox, freezer, refrigerator or container.

(89) Any unguarded or abandoned pit, well or hole dangerous to life or of more than two feet (2') in depth on any unenclosed lot, without substantial covering, protection or fencing.

(910) The accumulation, or permitting the accumulation, of Building Materials or objects of any nature where the same endangers property or safety, or constitutes a fire hazard, or where the Building Materials are exposed to view from any Public Place or adjacent property before or after the duration of a valid building permit.

(110) The existence of any fence or other structure or thing on private property abutting or fronting upon any Public Place or adjacent property which is in a sagging, leaning, decayed or otherwise dilapidated or unsafe condition and which may injure persons or property on a Public Place or adjacent property.

(112) The existence or maintenance on any premises of a storage area, junkyard or dumping ground for the wrecking or disassembling of automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative, ~~or~~ abandoned or non-registered automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind or of any major parts thereof; provided, however that an automobile wrecking yard or other junkyard, or storage area for machinery or equipment where the same are permitted by the city zoning regulations or where the same are being used by contractors or builders or by other persons during the construction of a project at the site is not a Nuisance; provided that the repair of a vehicle by the owner of property for a period not to exceed thirty (30) day is not a Nuisance; and further provided that the repair of vehicle and storage related to the repair of the vehicle which are not visible from a Public Place or adjacent property is not a Nuisance.

(123) Visible vehicle tires not mounted on a vehicle, vehicle bodies or parts, bed mattresses or springs, water heaters or other large household appliances.

(134) Animal manure in any quantity which creates a public health hazard, other than manure from domesticated pets; provided, however, animal manure may be used on a property in such a manner and for such purposes as are compatible with customary methods of good husbandry.

(145) Any loud and unnecessary noises, as enumerated in Section 9.04.030 of the Hailey Municipal Code, as amended.

(156) All other uses or structures which are declared to be Nuisances by city ordinance, or building, fire or life safety codes.

8.04.040 Nuisance Abatement Notice.

A. If it is determined that a Nuisance exists on any lot, place or area, or any street, sidewalk or public right-of-way abutting the same, the city shall, unless there are exigent circumstances, cause a notice to be issued to abate such Nuisance. Such notice shall contain a

description of the property in terms reasonably sufficient to identify the location of the Nuisance, describe the Nuisance in terms reasonably sufficient to identify the same, direct abatement of the Nuisance, and specify the penalty provisions and appeal process as herein provided.

B. The abatement notice may be served in the following manner:

1. By personal service on the Owner of the lot, place or area, if the Owner lives within the city, and by personal service on the Occupant or person in charge or control of the property, if such person can be identified; or,
2. If the Owner does not live within the city, by registered mail to the Owner at the address shown on the last available assessment roll, or as otherwise known, and, by personal service on the Occupant or person in charge or control of the property, if such person can be identified; or
3. Should the Owner not be known or have an available address, the posting at a conspicuous place on the land, on abutting public right-of-way, and the publication of an advertisement at least once a week, for a period of two weeks, in a newspaper of general circulation, and by personal service on the Occupant or person in charge or control of the property, if such person can be identified. The newspaper advertisement shall be a general notice that the property has been posted and shall contain a general statement of the effect of such posting.

8.04.050 Abatement Required. It shall be the duty of the Owner, or person occupying or controlling any lot, place or area in the city which has been declared a Nuisance as provided herein, within fifteen (15) days of posting, mailing or personal service of the Nuisance abatement notice to remove the Nuisance. Upon the failure, neglect or refusal of any Owner or Occupant so notified to remove the Nuisance, the city may cause legal action to be taken.

8.04.060 Appeal. Within fifteen (15) days from the date of posting, mailing or personal service of the required Nuisance abatement notice to the Owner or person occupying or controlling such lots or areas affected, such Owner or persons may appeal to the city council. Such appeals shall be in writing and shall be filed with the city clerk. At the time of filing an appeal, the appellant shall pay a fee for the appeal as established by resolution. At the regular meeting of the city council, not less than ten (10) days nor more than thirty (30) days thereafter, the city council shall proceed to hear and pass upon such appeal and the decision of the city council thereupon shall be final and conclusive.

8.04.070 Abatement by City – Costs.

A. If a Nuisance is deemed to be an immediate health hazard and exigent circumstances exist, the city may proceed with the removal of the Nuisance which is an immediate health hazard~~work specified in the notice for removal of such a Nuisance,~~ and the cost of the work shall be paid by the Owner or Occupant or other person in control of the property.

B. Upon the failure, neglect or refusal of any Owner or Occupant so notified to remove the Nuisance as required by court order, the city may proceed with the removal work specified in the notice for removal of such a Nuisance, and the cost of the work shall be paid by the Owner or Occupant or other person in control of the property.

C. The expenses of removal by the city of any Nuisance found under the provisions of this chapter shall constitute a lien upon the property.

8.04.080 Prohibited Acts.

A. It is unlawful for an Owner or Occupant to fail, neglect or refuse to remove a Nuisance from a property within the City of Hailey within the time set forth in an abatement notice served upon the Owner or Occupant in accordance with Section 8.04.040(B), above.

B. It is unlawful for any person to throw or deposit, or cause to be thrown or deposited upon any public street, alley, highway, ground, sidewalk, or any private vacant lot within the City of Hailey, any Refuse or Waste.

C. It is unlawful for any person to burn or cause to be burned on any public street or alley within the City of Hailey any Refuse or Waste.

C. It is unlawful for any person to dump, deposit or place any Garbage, Refuse, Waste or Rubbish on private property or in any Garbage Container within the City of Hailey without the authorization of the Owner or Occupant.

8.04.090 Violation-Penalty. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars (\$1000.00) or imprisoned in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. The city may, at its option, institute a civil action for the removal and the abatement of such Nuisance, or may institute a criminal action under this Chapter 8.04. The rights and remedies provided by this ordinance are cumulative and the use of any one right or remedy shall not preclude the City of Hailey from pursuing any or all other remedies the city may have by law, statute, ordinance or otherwise. This ordinance does not preclude the right of a private party to seek private enforcement of this ordinance against a party violating this Ordinance, but does not provide any private right of enforcement against the city for failure to enforce the provisions of this ordinance. The notice, appeal and abatement provisions outlined herein do not apply where a private party seeks private enforcement.

Section 2. 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. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

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, City of Hailey

Attest:

Mary Cone, City Clerk

HAILEY ORDINANCE NO. 1031

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8.04.060	Appeal
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8.04.080	Prohibited Acts
8.04.090	Violation—Penalty

8.04.010 Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare by regulating public nuisances within the city, by providing for the abatement of such nuisances, by prohibiting those conditions that create health or safety hazards, by prohibiting those conditions which interfere with the enjoyment of public or private property, by controlling the deposit and burning of litter, and by prohibiting littering.

8.04.020 Definitions. For purposes of this Chapter 8.04, the following capitalized words and phrases shall apply as defined herein:

“Building Materials” shall mean and include lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

“Garbage” includes all putrescible waste, except sewage and body waste, including waste from accumulated animal food or vegetable matter, and including waste that attends the preparation, use, cooking, dealing in or storing meat, fish, fowl, fruit and vegetables that shall include all of such wastes or accumulations of vegetable matter of residences, restaurants, hotels and places where food is prepared for human consumption. Garbage shall not include recognized industrial by-products.

“Garbage Container” shall mean any and all containers and cans used for the storage and/or collection of waste, Refuse, Garbage and/or Rubbish.

“Junk” shall mean all appliances or parts thereof, all parts of motor vehicles, tires, all iron or other metal, plastics, glass, paper, cardboard, rubber, lumber, wood (excepting stacked firewood), mattresses, disabled trailers or parts thereof, all of which meet one of the following requirements:

- (a) Are discarded;
- (b) Are unusable;
- (c) Are broken; or
- (d) Have not been used for their primary and original purpose for a period of six months.

“Noxious Weeds” shall be as defined by Idaho Code § 22-2402, as amended, and the Idaho Administrative Rules.

“Nuisance” shall mean any condition or use of property which a) injures or endangers the comfort, health or safety of others, b) is indecent, or offensive to the senses, c) obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, stream, canal, or basin, or any public park, square, street, alley, sidewalk or highway, or d) is enumerated to be a Nuisance by Section 8.04.030 of the Hailey Municipal Code.

“Owner” and “Occupant,” wherever used in this chapter, may be used interchangeably, and shall mean every person in possession, charge or in control of any dwelling, flat, roominghouse, or any eating place, shop, place of business, manufacturing or business establishment where Garbage or other Refuse is created or accumulated.

“Public Place” 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 to public streets, alleys and sidewalks.

“Refuse” shall mean solid wastes, including Garbage and Rubbish.

“Rubbish” shall mean Refuse other than Garbage, tin cans, bottles, leaves, weeds and cuttings from trees, lawns, shrubs, and gardens or other waste materials produced in the normal course of doing business, or everyday living. Rubbish shall not include recognizable industrial by-products.

“Street Tree” shall mean any tree, shrub, or other woody vegetation on lands within City of Hailey street rights-of-way.

“Waste” means unwanted solid, liquid, or gaseous materials.

8.04.030 Nuisances Enumerated. Without limitation of the generality of the definition of Nuisance, the following acts, omissions, conditions and things are declared to be and constitute a Nuisance:

- (1) Storing or accumulating, or permitting the storage or accumulation, of Junk on any premises where the Junk is exposed to view from any Public Place, or adjacent property.
- (2) The accumulation, or permitting the accumulation of tin cans, bottles, trash, litter, Waste or Refuse of any nature on any premises, or any dangerous accumulation of Noxious Weeds, trash, dirt, filth or yard trimmings, except in Garbage Containers maintained for regular collection. Regularly maintained compost piles shall not be considered a Nuisance.
- (3) Permitting the existence of i) any dilapidated, abandoned or partially destroyed building or structure, or ii) any unused building or structure which is not properly secured from entry, or failing to materially complete the exterior of any building or structure commenced and left unfinished after the expiration of a valid building permit.
- (4) Storing, or permitting to be stored, any toxic, radioactive, caustic, flammable, explosive or other dangerous or hazardous substances, except when stored in compliance with the requirements of all regulatory agencies having jurisdiction.
- (5) Permitting the existence of any putrid, unsound or unwholesome bones, meat, hides or skins, or the whole or any part of any dead animal, fish or fowl.
- (6) Privies, vaults, cesspools, sumps, pits, excavations or like places which are not securely protected, or which are foul or malodorous.
- (7) Leaving or permitting to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling, or other structure, under the control of any person, and in a place accessible to the public, any abandoned, unattended or discarded icebox, freezer, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing such door or lid, snap lock or other locking device from such icebox, freezer, refrigerator or container.
- (8) Any unguarded or abandoned pit, well or hole dangerous to life or of more than two feet (2') in depth on any unenclosed lot, without substantial covering, protection or fencing.

(9) The accumulation, or permitting the accumulation, of Building Materials or objects of any nature where the same endangers property or safety, or constitutes a fire hazard, or where the Building Materials are exposed to view from any Public Place or adjacent property before or after the duration of a valid building permit.

(10) The existence of any fence or other structure or thing on private property abutting or fronting upon any Public Place or adjacent property which is in a sagging, leaning, decayed or otherwise dilapidated or unsafe condition and which may injure persons or property on a Public Place or adjacent property.

(11) The existence or maintenance on any premises of a storage area, junkyard or dumping ground for the wrecking or disassembling of automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative, abandoned or non-registered automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind or of any major parts thereof; provided, however that an automobile wrecking yard or other junkyard, or storage area for machinery or equipment where the same are permitted by the city zoning regulations or where the same are being used by contractors or builders or by other persons during the construction of a project at the site is not a Nuisance; provided that the repair of a vehicle by the owner of property for a period not to exceed thirty (30) day is not a Nuisance; and further provided that the repair of vehicle and storage related to the repair of the vehicle which are not visible from a Public Place or adjacent property is not a Nuisance.

(12) Visible vehicle tires not mounted on a vehicle, vehicle bodies or parts, bed mattresses or springs, water heaters or other large household appliances.

(13) Animal manure in any quantity which creates a public health hazard, other than manure from domesticated pets; provided, however, animal manure may be used on a property in such a manner and for such purposes as are compatible with customary methods of good husbandry.

(14) Any loud and unnecessary noises, as enumerated in Section 9.04.030 of the Hailey Municipal Code, as amended.

(15) All other uses or structures which are declared to be Nuisances by city ordinance, or building, fire or life safety codes.

8.04.040 Nuisance Abatement Notice.

A. If it is determined that a Nuisance exists on any lot, place or area, or any street, sidewalk or public right-of-way abutting the same, the city shall, unless there are exigent circumstances, cause a notice to be issued to abate such Nuisance. Such notice shall contain a description of the property in terms reasonably sufficient to identify the location of the Nuisance, describe the Nuisance in terms reasonably sufficient to identify the same, direct abatement of the Nuisance, and specify the penalty provisions and appeal process as herein provided.

B. The abatement notice may be served in the following manner:

1. By personal service on the Owner of the lot, place or area, if the Owner lives within the city, and by personal service on the Occupant or person in charge or control of the property, if such person can be identified; or,
2. If the Owner does not live within the city, by registered mail to the Owner at the address shown on the last available assessment roll, or as otherwise known, and, by

personal service on the Occupant or person in charge or control of the property, if such person can be identified; or

3. Should the Owner not be known or have an available address, the posting at a conspicuous place on the land, on abutting public right-of-way, and the publication of an advertisement at least once a week, for a period of two weeks, in a newspaper of general circulation, and by personal service on the Occupant or person in charge or control of the property, if such person can be identified. The newspaper advertisement shall be a general notice that the property has been posted and shall contain a general statement of the effect of such posting.

8.04.050 Abatement Required. It shall be the duty of the Owner, or person occupying or controlling any lot, place or area in the city which has been declared a Nuisance as provided herein, within fifteen (15) days of posting, mailing or personal service of the Nuisance abatement notice to remove the Nuisance. Upon the failure, neglect or refusal of any Owner or Occupant so notified to remove the Nuisance, the city may cause legal action to be taken.

8.04.060 Appeal. Within fifteen (15) days from the date of posting, mailing or personal service of the required Nuisance abatement notice to the Owner or person occupying or controlling such lots or areas affected, such Owner or persons may appeal to the city council. Such appeals shall be in writing and shall be filed with the city clerk. At the time of filing an appeal, the appellant shall pay a fee for the appeal as established by resolution. At the regular meeting of the city council, not less than ten (10) days nor more than thirty (30) days thereafter, the city council shall proceed to hear and pass upon such appeal and the decision of the city council thereupon shall be final and conclusive.

8.04.070 Abatement by City – Costs.

A. If a Nuisance is deemed to be an immediate health hazard and exigent circumstances exist, the city may proceed with the removal of the Nuisance which is an immediate health hazard, and the cost of the work shall be paid by the Owner or Occupant or other person in control of the property.

B. Upon the failure, neglect or refusal of any Owner or Occupant so notified to remove the Nuisance as required by court order, the city may proceed with the removal work specified in the notice for removal of such a Nuisance, and the cost of the work shall be paid by the Owner or Occupant or other person in control of the property.

C. The expenses of removal by the city of any Nuisance found under the provisions of this chapter shall constitute a lien upon the property.

8.04.080 Prohibited Acts.

A. It is unlawful for an Owner or Occupant to fail, neglect or refuse to remove a Nuisance from a property within the City of Hailey within the time set forth in an abatement notice served upon the Owner or Occupant in accordance with Section 8.04.040(B), above.

B. It is unlawful for any person to throw or deposit, or cause to be thrown or deposited upon any public street, alley, highway, ground, sidewalk, or any private vacant lot within the City of Hailey, any Refuse or Waste.

C. It is unlawful for any person to burn or cause to be burned on any public street or alley within the City of Hailey any Refuse or Waste.

C. It is unlawful for any person to dump, deposit or place any Garbage, Refuse, Waste or Rubbish on private property or in any Garbage Container within the City of Hailey without the authorization of the Owner or Occupant.

8.04.090 Violation—Penalty. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars (\$1000.00) or imprisoned in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. The city may, at its option, institute a civil action for the removal and the abatement of such Nuisance, or may institute a criminal action under this Chapter 8.04. The rights and remedies provided by this ordinance are cumulative and the use of any one right or remedy shall not preclude the City of Hailey from pursuing any or all other remedies the city may have by law, statute, ordinance or otherwise. This ordinance does not preclude the right of a private party to seek private enforcement of this ordinance against a party violating this Ordinance, but does not provide any private right of enforcement against the city for failure to enforce the provisions of this ordinance. The notice, appeal and abatement provisions outlined herein do not apply where a private party seeks private enforcement.

Section 2. 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. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

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, City of Hailey

Attest:

Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 11/23/09 DEPARTMENT: PW DEPT. HEAD SIGNATURE: 

SUBJECT: Approve in concept the scope of work with a final agreement to be approved later with Ruscitto/Latham/Blanton for design services for the Rodeo Grounds, Ice Rink and Skatepark Park

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

In order to meet the proposed construction period for the Rodeo Grounds project final design work needs to begin. The proposed scope of work is comprehensive and acceptable to Public Works. A final agreement will be forthcoming.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Tom Hellen Phone # 788-9830 Ext 14
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:

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
Copies (all info.): _____
Instrument # _____

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

Draft 12-30-03

November 11, 2009

Heather Dawson, City Administrator
Tom Hellen, PE, Public Works Director/City Engineer
City of Hailey
115 Main Street South
Hailey, ID 83333

RE: Hailey Rodeo Grounds
Architectural and Engineering Fee Proposal
Preliminary Project Schedule

Dear Heather and Tom:

Attached herein, please find an architectural and engineering fee proposal. This proposal defines a detailed program scope for the different project components, what the architectural and engineering services by phases consist of and what the anticipated construction types and methods for the various components may consist of. Also defined are the architectural and engineering fees, how the fee is broken out by phase, what is not included under the fee and what reimbursable expenses constitute.

Also enclosed is a preliminary project schedule to be used as a starting point to track monthly tasks and deadlines. This schedule also anticipates how the architectural and engineering fee will be utilized.

Please review these documents; I will be glad to answer any questions you may have either by phone, email or a meeting.

Yours truly,



Nicholas Latham AIA

NL/jb
Enc.

RUSCITTO/LATHAM/BLANTON

ARCHITECTURA P.A.

p.o. box 419 sun valley, idaho 83353

208.726-5608

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11/06/09

PROPOSAL HAILEY RODEO GROUNDS COMPLEX

Ruscitto/Latham/Blanton Architectura P.A. proposes to provide Architectural and Engineering Services for the Hailey Rodeo Arena, Hailey Ice Skating Facility, Hailey Skate Park Addition, and a Visitor's Center, including site design and landscape design as defined herein.

Property: Consists of the existing Hailey Rodeo Grounds Complex site located north of Main Street and bound to the west by Blaine Manor, to the north by Nelson Ball Fields and to the east by the Snow Bunny Drive-In and the alley in Hailey, Idaho.

Program

Rodeo Arena

Demolition of existing structure (recycle if possible)
3,000 – 4,000 seat rodeo arena and multi-use facility
250 foot x 125 foot arena with fencing and gates
Bleachers and associated circulation ways including ramps and stairs
Ticket sales space(s)
Animal pens, stock chutes, corrals, etc.
Restrooms to service rodeo and other events
Family restroom(s) (as required by code)
Storage areas
Concession space(s)
Lighting for rodeo event
Audio system for rodeo event
Announcer booth/press box
Electrical room
Dumpster enclosure
Associated site design and landscaping

Ice Skating Facility

Phase I

Open ice sheet 85 feet x 200 feet
Concrete floor below ice sheet with refrigeration and frost prevention system
Ice refrigeration (design build)
Hockey boards
Bleachers: 50 – 100 seats
Zamboni storage and ice depository
Associated foundations and utilities for future structure
Storage spaces
Night lighting/scoreboard
Refrigeration controls and room (to be determined)

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Phase II (Ice Skating Facility)

Covered ice sheet structure, roof, walls, concrete perimeter floors, insulation
Interior finishes, doors, windows, ice skate compatible flooring, etc.

400 – 500 bleachers

4 locker rooms

1 ADA locker room

Concession space

Ticket sales

Ice skate rental area

Restrooms (restrooms may also service skate park)

Unisex family restroom

Office space

Storage space(s)

Electrical room

Mechanical room (refrigeration, HVAC, and dehumidification)

Janitorial room

Electrical, lighting, mechanical, and fire sprinkler systems

Dumpster enclosure

Associated site design and landscaping

Skate Park Facility

Addition to existing Skate Area/Park

Site design and detail by bidder design

Landscape and associated site design

Public restroom building (men's and women's ADA/ABAG)

Visitor Center

Museum/Gallery Space

Meeting Room

Office (verify)

ADA restroom(s)

Storage area

Janitor closet

Site Design

Parking – multifunctional for rodeo and other uses

Site drainage (surface and subsurface)

Site landscaping

Exterior lighting

Architectural Services by Phases

Ruscitto/Latham/Blanton Architectura P.A. will be the prime design professional and will coordinate and direct any consultants on behalf of the Owner and provide the following Architectural Services:

Schematic Design Phase

The Architect shall review the program created by the Parks and Lands Board planning process, the Sawtooth Rangers, Hailey Ice, the Hailey Skate Group, the City of Hailey and the Scope of Work provided by Ruscitto/Latham/Blanton and reviewed by the City of Hailey staff on October 29, 2009. From this scope of work the Architect shall provide schematic designs for the various project components (i.e. Rodeo Arena, Ice Facility, Visitor's Center, Skate Park Addition, and Site Design). These drawings will be used to assist in determining construction cost and will be the basis of preliminary approvals. Note that certain portions of the work, such as the Skate Park addition, will be design build.

Design Development Phase

The Architect shall take the schematic design and the different project components and further develop the designs in more detail and update the Statement of Probable Cost. These drawings shall also be used for City of Hailey design review approval and to seek out bidder design proposals.

Construction Documents

The Architect and associated Consultants shall prepare construction documents including specifications, from which to bid and/or negotiate construction contracts of the various project components. The construction documents shall be used to acquire a building permit and to construct the various project components. Structural engineering, mechanical engineering, electrical engineering and landscape design are included for all components less the bidder design components listed herein.

Bidding Negotiation Phase

The Architect and appropriate consultants shall provide assistance to the Owner during bidding and bidder design portions of the work to assist in the bidding process, answer questions, provide clarifications, provide addendums, provide pre-bid conferences, pre-construction conferences, assist in Owner/Contractor contracts.

Construction Observation

The Architect and appropriate consultants shall provide construction observation services, weekly project meetings, project punch list services and project close out services necessary to complete the various component projects.

Owner Responsibilities

Surveying

Geotech Engineering – Geotech report

Environmental Assessment

Construction Testing – soils, concrete, steel, other special inspections required by the I.B.C. (International Building Code)

Anticipated Construction Type and Methods

Rodeo Arena

Bleacher shall be premanufactured metal bleachers designed for live load, dead load and snow loads. Where required, the bleachers and associated structure shall be designed to accommodate restrooms, concessions, ticket, and storage spaces below the seating areas. A concrete, below grade foundation system shall support the bleacher system. Restrooms shall be constructed of standard durable construction materials, i.e. steel, concrete masonry units, as appropriate for the building type and International Building Code requirements. The restrooms and ancillary spaces will require mechanical engineering. Circulation ways shall be from concrete, steel or associated bleacher system. All public spaces shall be designed to meet current ADA/ANSI/ABAG codes. All seating areas and egress ways shall be provided with emergency lighting systems. The Rodeo Arena and adjacent public areas will be designed for night rodeo events with area lighting and a rodeo audio system. All electrical and lighting design shall be designed by an electrical engineer. Electrical “house” distribution for other facility events shall be designed as budget allows.

Fencing and stock pens will be constructed as a bidder design with a performance specification provided by the Architect.

All construction components of the Rodeo Arena will be “maintenance free” where possible and shall be designed to incorporate “Green” and sustainable materials, assemblies and systems where possible. Whenever possible, local consultants and contractors shall be utilized.

Demolition of the existing structure will be required. Reuse and or recycling of the structure will be incorporated in this portion of the project.

Ice Skating Facility

Phase I of the construction shall consist of an outdoor ice sheet constructed over a refrigerated concrete slab with under-slab frost prevention system. The refrigeration system shall be a bidder/design system, most likely, ammonia based. Hockey boards will be incorporated into the design as will a Zamboni equipment room with heated ice depository. Minimal securable storage will be required in Phase I. 50-100 bleachers will be purchased for spectator viewing. Associated night lighting and scoreboard with power distribution will be required in Phase I. Construction of any foundations, plumbing or power distribution for the future Phase II portion of the project will be required in Phase I. "Green" building practices and sustainable materials will be incorporated in the construction.

Phase II of the Ice Skating Facility will be the construction of a structure to enclose the Phase I ice sheet. The enclosure will most likely be constructed of steel and concrete. A decision for full or partial enclosure has not been made at this time, but the Architect feels a completely enclosed facility will minimize many negative weather related and security issues.

Additional bleachers totaling 400-500 will be constructed with locker rooms, restrooms, storage, ticket sales area, ice skate rental area, concession area, office space, electrical and mechanical areas. All areas shall be designed to meet ADA/ANSI/ABAG accessibility standards and shall be constructed of standard durable construction materials, (i.e. steel, concrete masonry units), as appropriate for the building type and International Building Code requirements. The Phase II structure shall be built around the Phase I Zamboni equipment room and refrigeration equipment, which will create design challenges. The site associated with the ice rink will allow for multi-use patron parking. "Green" building practices and sustainable materials will be incorporated in the construction of Phase II. Electrical and Mechanical Engineers will be required for the design of the Ice Skating Facility. Particular attention shall be paid to the sound attenuation of the refrigeration system components to neighboring properties.

Skate Park Facility

The new addition to the Existing Skate Park Facility will be a bidder/design portion of the work. The intent of the Skate Plaza is to design a "park within a park". The proposed materials and methods of construction shall be similar to the current park with concrete and steel components. All areas shall be designed to meet ADA/ANSI/ABAG accessibility standards and shall be constructed of standard durable construction materials, (i.e. steel, concrete masonry units), as appropriate for the building type and International Building Code requirements. The park will also include landscape features, and typical park amenities (i.e. benches, tables, etc.)

Visitor's Center

A new Visitor's Center attached to the Rodeo Arena will be constructed using standard construction techniques and materials. A mechanical HVAC system and museum type lighting will be incorporated into the project necessitating both Electrical and Mechanical Engineers. A portion of the existing Rodeo Arena may be incorporated into the design and construction of the public space. All areas shall be designed to meet ADA/ANSI/ABAG accessibility standards and shall be constructed of standard durable construction materials, (i.e. steel, concrete masonry units), as appropriate for the building type and International Building Code requirements. Site design and landscaping will be incorporated in this work.

Site Design Including Landscape Design

An underground site drainage and collection system will be incorporated in the site design. Oil collection and separation shall be part of the design. Landscape design will focus on providing low maintenance and low water usage with good hardy plant material selections. A Landscape Architect and Civil Engineer will be utilized for this portion of the project. Curb cuts, ramps, etc. shall be incorporated in the hardscape concrete portions of the work to meet current ADA/ANSI/ABAG accessibility standards.

Architectural Fees

Ruscitto/Latham/Blanton Architectura P.A. proposes a fixed architectural fee. The fee is a lump sum stipulated amount that does not change unless there are revisions to the project scope. The fee includes all design services (less those portions of the project outlined as bidder/designed), all construction documents, specifications and construction observation as outlined herein.

The fee also includes all normal structural engineering, mechanical engineering, electrical engineering, and landscape design. Surveying, civil engineering, utility engineering, geotechnical engineering, special and materials testing are not included in the fee and shall be the Owner's responsibility or reimbursable expense to the Architect.

The architectural fee is based on a preliminary anticipated project construction cost of \$5 to \$6 million which will be projected at an upcoming date.

The architectural fee is billed monthly based upon percentage of Architectural/Engineering work completed plus reimbursable expenses.

If the scope of work is modified, additional services will be negotiated between the Owner and Architect and billed at standard hourly rates or at predetermined amount.

Reimbursable expenses to the Architect such as geotechnical engineering, special engineering, surveying, civil engineering, special inspections/materials testing, acoustical engineering, out-of-house code reviews by independent review firm, permitting fees, reproductions, express mail, long distance communication, out of town travel expense, etc.

Ruscitto/Latham/Blanton Architectura P.A. proposes a fee of \$375,000.00 (Three Hundred Seventy-Five Thousand Dollars) based on the work described herein.

Architectural Fee Breakdown

Schematic Design Phase	20%	\$ 75,000.00
Design Development Phase	10%	\$ 37,500.00
Construction Document Phase	55%	\$206,250.00
Bidding and Negotiation Phase	5%	\$ 18,750.00
<u>Construction Phase</u>	<u>10%</u>	<u>\$ 37,500.00</u>
Total	100%	\$375,000.00

11/06/09

PRELIMINARY PROBABLE PROJECT SCHEDULE HAILEY RODEO GROUNDS COMPLEX

November 2009

Define program components in detail.
Start schematic design phase.
Continue research on project components.
Resolve Snow Bunny Restaurant access issues.
Start fundraising efforts.
Authorize preliminary Geotech investigation.
Authorize survey of property.
Finalize programs with Sawtooth Rangers, Hailey Ice, etc.
Produce Preliminary Statement of Probable Construction Cost.

December 2009

Review Preliminary Statement of Probable Construction Cost.
Confirm First Ave. right-of-way usage.
Skate Park Request for Proposal – design and Construction Documents only.
Review schematic design progress with associated parties.
Request preliminary design-build options – Skate Park/ice sheet and refrigeration system.

January 2010

Review schematic design drawings with all parties.
Request/submit for City Council approval 1/11 or 1/25.
Award Request for Proposal for Skate Park.
Start Hailey Design Review/Planning & Zoning process.
Schedule first Planning & Zoning hearing.
Start design development phase.
Update and revise program as may be required.

February 2010

Finalize schematic design for Skate Park.
Present to Hailey Planning & Zoning.
Go through variance process if required.
Revise and update Statement of Probable Construction costs.
Update and revise program as may be required.
Final Geotech report complete.

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March 2010	Complete Planning & Zoning approval process. Prepare bond as may be required. Start construction document phase.
April 2010	Complete environmental assessment (asbestos investigation) on demolition portions. Double wide trailer is removed from site.
May 2010	Complete construction documents. City has obligation bond election (May 4) Advertise Public Works portions of project for bid. Start bid process. Seek design-build proposals for selected work. Apply for Building Permits.
June 2010	Complete bid process. Complete design-build process. Award construction/design-build contracts. Receive Building Permit Approvals. Order restroom building.
July 2010	Last 4 th of July rodeo event in existing Arena. Start salvage/recycle/demolition of Rodeo Grounds. Remove existing site utilities. Fundraiser event prior to existing Rodeo Arena demolition (during rodeo events). Start underground site work. Start new Rodeo Grounds construction. Start Hailey Ice construction. Ground breaking ceremony.
August 2010	Install concrete foundations – Ice Facility. Underground piping, drains. Install underground drainage. Install underground utilities. Start Skate Park construction. Install Rodeo ground foundations. Install Visitor's Center foundations.
September 2010	Start installation of refrigeration system. Start Zamboni/storage structure. Install underground utilities, plumbing, etc. Start parking lot construction at Ice Rink. Start Visitor's Center framing.

October 2010	<ul style="list-style-type: none">Pour concrete slab at Ice Rink.Install hockey boards at Ice Rink.Complete refrigeration plant at Ice Rink.Complete Zamboni/storage structure at Ice Rink.Install bleachers at Ice Rink.Start construction of Rodeo Grounds restrooms, etc.Complete Skate Park construction.Seek occupancy permit for Ice Rink.Install restroom building.
November 2010	<ul style="list-style-type: none">Fill and test refrigeration system.Receive Occupancy Permit.Make ice sheet.Ice sheet complete for Thanksgiving opening.
December 2010 (weather dependant)	<ul style="list-style-type: none">Prepare project close-out in Ice Rink portion.Complete Rodeo Grounds structural portions of restrooms, etc.Start installation of Rodeo Grounds bleachers, etc.
January 2011 (weather dependant)	<ul style="list-style-type: none">Start interior finish of Rodeo Grounds restrooms, etc.Complete structural portion of Visitor's Center.
February 2011 (weather dependant)	<ul style="list-style-type: none">Continue above noted construction.Complete interior finish of restrooms, etc.Start interior finish work of Visitor's Center
March 2011 (weather dependant)	<ul style="list-style-type: none">Continue above noted construction.
April 2011	<ul style="list-style-type: none">Continue bleachers and all structural components.Start pens and fencing work.Complete Visitor's Center.Receive Occupancy Permit.Start landscaping work.
May 2011	<ul style="list-style-type: none">Complete framing and site work.Complete electrical and audio work.Start curb and gutter site work.Pave entire parking area.Install final landscaping work.

Hailey Rodeo Grounds Complex Preliminary Probable Project Schedule

November 6, 2009

Page 4

June 2011

Close out projects.
Receive Occupancy Permit.

July 2011

First rodeo event in new facility.

Future 2011 – 2012

Complete ice facility structure and associated site
work and landscape.

