

AGENDA ITEM SUMMARY

DATE: 11/24/11 DEPARTMENT: PW/Clerk DEPT. HEAD SIGNATURE: [Signature] MHC

SUBJECT: Wastewater Ordinance revision to address the beginning of sewer fees

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

See the attached memo.

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: - 2nd Reading

Motion to approve Municipal Code Amendment to Title 13, Water and Wastewater fees, Chapters 13.02 and 13.04, to allow deferral of wastewater billing for a maximum of six months for new residential construction and twelve months for new commercial construction, ~~proceed with the first reading~~, read by title only. 2nd Reading

ADMINISTRATIVE COMMENTS/APPROVAL:

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

ACTION OF THE CITY COUNCIL:

Date 11/14/2011 - Amended during discussion. Amended Title read for 1st reading. Schedule 2nd reading for Nov 21, 2011.

11/21/2011 - 2nd Reading Hold.

City Clerk 11/28/2011 - Ordinance # corrected to 1094. 3rd reading and Summary

FOLLOW-UP:

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

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

HAILEY ORDINANCE NO. 1094

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 13.02.010(A) TO ADD THE DEFINITIONS OF CERTIFICATE OF OCCUPANCY AND NEW CONSTRUCTION; AMENDING SECTIONS 13.04.130(A) AND (B) TO PROVIDE AN EXCEPTION TO THE ASSESSMENT OF WASTEWATER FEES FOR NEW CONSTRUCTION UNTIL ISSUANCE OF A CERTIFICATE OF OCCUPANCY; 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 City desires to clarify that new construction will not be assessed wastewater user fees until issuance of a certificate of occupancy; and

WHEREAS, the Mayor and City Council find that the amendments to Chapters 13.02 and 13.04 of the Hailey Municipal Code 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. Sections 13.02.010(A) of the Hailey Municipal Code is hereby amended by the addition of the underlined language and the renumbering of definitions as follows:

13.02.010 Definitions. Unless the context specifically indicates otherwise, the meaning of capitalized terms used in this Title 13 shall be as follows:

A. General.

1. “Certificate of Occupancy” shall mean either a temporary certificate of occupancy or a final certificate of occupancy issued by the Hailey Building Official under the applicable adopted building code, whichever occurs first.

2. “City” shall mean the City of Hailey, Blaine County, Idaho, or its authorized or designated agent, representative or deputy therefore.

3. “City Council” shall mean the Hailey City Council.

4. “New Construction” shall mean construction of a new residential or commercial building requiring a connection to the Municipal Wastewater System.

5. “Owner” shall mean a property owner, or his duly authorized representative, who is served or is to be served by the Municipal Water or Wastewater System.

6. “Person” shall mean any individual, firm, company, association, society, corporation or group.

7. “Property” shall mean all property, whether privately or publicly owned, within the corporate limits of the Municipal Water System excluding there from lands that have been dedicated for public street or highway rights-of-way.

8. “Standards” shall mean the City Public Works Department Standard Drawings and Specifications, the Idaho Standards for Public Works Construction and Idaho Administrative Code, IDAPA 58.01, *et seq.*, as adopted and as amended from time to time.

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

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

A. Water User Fees. ~~The Owner or Owner's agent of all Property connected to the Municipal Water System under the terms of this chapter shall be assessed and shall pay monthly user fees beginning at the time of connection, as follows:~~

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

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

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

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

B. Wastewater User Fees. ~~Except as otherwise provided in subparagraph 5 below, the Owner or Owner's agent of all Property connected to the Municipal Wastewater~~

System under the terms of this chapter shall be assessed and shall pay monthly user fees beginning at the time of connection, as follows:

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

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

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 Systems.

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

5. Exception for New Construction. Wastewater User fees shall not be assessed until the issuance of a Certificate of Occupancy for New Construction.

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

Section 4. 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 5. Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this ___ day of _____, 2011.

Richard L. Davis, Mayor City of Hailey

ATTEST:

Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 11/28/2011

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Summary of Hailey Ordinance No. 1094 (Wastewater ordinance amendment)

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a summary of Hailey Ordinance No. 1094 which provides for payment of wastewater fees at the issuance of a certificate of occupancy for new construction.

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:

Make a motion to approve the summary of Hailey Ordinance No. 1094.

FOLLOW-UP REMARKS:

SUMMARY OF HAILEY ORDINANCE NO. 1094

The following is a summary of the principal provisions of Ordinance No. 1094 of the City of Hailey, Idaho, duly passed and adopted November 28, 2011, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 13.02.010(A) TO ADD THE DEFINITIONS OF CERTIFICATE OF OCCUPANCY AND NEW CONSTRUCTION; AMENDING SECTIONS 13.04.130(A) AND (B) TO PROVIDE AN EXCEPTION TO THE ASSESSMENT OF WASTEWATER FEES FOR NEW CONSTRUCTION UNTIL ISSUANCE OF A CERTIFICATE OF OCCUPANCY; 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.

Hailey Ordinance No. 1085 amends Title 13 of the Hailey Municipal Code, as follows:

Section 1 amends Section 13.02.010(A) of the Hailey Municipal Code to add the definitions of Certificate of Occupancy and New Construction.

Section 2 amends Section 13.04.130 of the Hailey Municipal Code to provide that wastewater fees for new construction will be assessed at the time of issuance of a certificate of occupancy.

Section 3 provides for a repealer clause.

Section 4 provides for a severability clause.

Section 5 provides for an effective date of the ordinance.

The full text of Ordinance No. 1094 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1094 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1094, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this _____ day of November, 2011.

Ned Williamson, Hailey City Attorney

AGENDA ITEM SUMMARY

DATE: November ²⁸ 14, 2011

DEPARTMENT: Fire, City Clerk & Community Development

SUBJECT: Title 5 amendments effecting child care permit requirement

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Chapter 5.03 of the Hailey Municipal Code was originally adopted on September 13, 1999 by Ordinance No. 740 when state licensing requirements for child care facilities were not considered to be adequate by the City of Hailey to protect the safety of occupants of child care facilities located within the City of Hailey;

The Idaho Department of Health and Welfare conducted extensive information gathering from local cities during late 2008 through early 2010. As a result of this project, new state regulations were adopted in mid-2010 – IDAPA 16.06.02 – Standards for Child Care Licensing. In April 2011, the state revised IDAPA 16.06.02 – Standards for Child Care Licensing, which became effective July 1, 2011. This code requires proof that child care provider applicants meet local building, electrical, fire and planning and zoning codes.

The current state child care licensing regulations mirror, and in some cases exceed, the requirements set forth in Chapter 5.03 of the Hailey Municipal Code (see attached comparison by Mike Baledge). The Hailey Fire Marshal and Fire Inspectors are required to be State Certified Fire Inspector and are required to inspect all child care facilities for state licensing purposes and as such are involved in the regulation of child care facilities located within the City of Hailey.

As a result of the recent changes to the state regulations and the Fire Department's continued involvement in state licensing of child care facilities in Hailey, it is recommended by staff that Hailey amend Title 5 to eliminate the separate city child care license and utilize the city business license process to oversee and regulate child care businesses within Hailey. The city will require state licensing for all child care providers, regardless of numbers of children and regardless if operated out of a home or commercial space. The city will still inspect all child care providers to insure compliance with both city and state requirements.

Staff reviewed this background with the Council on October 10 and on October 24 the Council approved the draft ordinance with the following changes: delete Chapter 5.03 (Child Care Facility Licensing), amend Chapter 5.02 (Licenses Generally) to amend the definition of business and add a purpose section, add an applicability section and to include standards for child care businesses to require any business providing child care services, regardless of the number of children being cared for, obtain a state of Idaho Child Care License and provide the city a copy of such state license as part of the city business license process. These changes will, in essence, streamline the process for child care business in Hailey without compromising high safety standards applied to those businesses.

Since the first reading, two whereas statements were amended to more accurately reference the applicable state codes including Title 39, Chapter 11 and Idaho Administrative Procedures Act (IDAPA). Reference to Idaho Code Title 39, Chapter 11 and Idaho Administrative Procedures Act (IDAPA) Standards for Child Care Licensing was also added to 5.02.040(F). The City Attorney shortened the ordinance by deleting the verbatim strike through of Chapter 5.03.

If the Council were to determine that they are no longer comfortable eliminating Chapter 5.03, then some minor amendments, to help eliminate confusion between the state and city licensing processes, should be drafted.

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

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Motion to conduct the second reading of Ordinance 1094 by title only.

ADMINISTRATIVE COMMENTS/APPROVAL:

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

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: Record

Copies (all info.): _____

Instrument # _____

*Additional/Exceptional Originals to: _____

Copies (AIS only)

Hailey Fire Dept.
617 S. Third Street
P.O. Box 1192
Hailey, Idaho 83333



Capt. Michael Baledge
Fire Marshal
Office: 208-788-3147
Fax: 208-788-0279
E-mail:
mike.baledge@haileycityhall.org

November 3, 2011

To whom it may concern,

In 2010 the State of Idaho made changes to Title 39 Chapter 11. The new statute matched, and in some cases exceeded, the requirements of the City of Hailey's Daycare Ordinance. The State also began enforcing the statutes more diligently as well. This started creating some issues for our daycare providers getting their licenses due to the State wanting the City's license to be issued before the State issued their license. The City Ordinance However required the State license to be issued prior to the City's license. So knowing that by state law we could not have an ordinance that is less stringent than the State Statute, and that most of the other requirements mirrored each other, the City Staff felt that the ordinance was obsolete. Below is a side by side comparison of the State Statute and the City Ordinance:

39-1101 vs. 5.03.010 (Purpose)

These two sections almost read verbatim with subtle differences such as the City Ordinance pertaining to the City and State, while the State Statute only pertains for the State.

39-1102 vs. 5.03.020 (Definitions)

The City uses different wording than the State to match the same definitions. This isn't a huge issue but it has created some confusion. The original idea was for the City to change it's terminology to match the State's but it would not be necessary to do this if we were just enforcing the State Statute with no City Ordinance.

39-1103 (Licensing Authority)

The City Ordinance covers parts of this section in "definitions" and in 5.03.030. There are some differences in this section. The State Statute still states it is optional for daycares with 6 or fewer children to become licensed by the State, while the City requires all daycares to be licensed by the State and City regardless of size. We still want to require all daycares in the City of Hailey to be licensed by the State, so we decided to make some changes to the Business License Ordinance to include daycares regardless of size as a business that must have a business license and in order to get that business license the daycare must be licensed by the State.

39-1104 vs. 5.03.040 & 5.03.050 Section 1 (a) & (b) (Application & Inspections)

The State Statute is easier to understand and covers this in one section, while the City ordinance covers this in three different sections. However both sections are similar. So if a daycare provider has a current state license, they have the required inspections and documentation.

39-1105 vs. 5.03.050 section 1 (c) (Background Checks)

The State Statute is actually more stringent then the City's requirements so by eliminating the ordinance we do not have to duplicate this requirement.

39-1106 vs. 5.03.060 A&B (Licenses & Renewals)

The State Statute and the City Ordinance are similar. The State Statute is written so it is easier to understand what is required to maintain and renew the license.

39-1107 vs. 5.03.050 (fees)

The Hailey City Council has always based the required fees for licenses and inspections as to not exceed the limits set forth by the State.

39-1108 (Local Option)

This section covers the option for cities to create their own ordinance as long as it is no less restrictive than the states. The City of Hailey Staff chose several years ago to go with this option. Now our City Ordinance (local option) is obsolete and no longer in compliance with the State Statute.

39-1109 (Safety Standards)

This is a new section in the State Statute that addresses specific safety hazards that daycares may encounter. This section is not addressed in the City Ordinance.

39-1110 (Health Standards)

This is a new section in the State Statute that addresses specific health concerns that daycares may encounter. This section is not addressed in the City Ordinance.

39-1111 (Rules Authorized)

This is a State Government specific statute and does not pertain to the City.

39-1112 (visitation)

This section covers the parent's right to enter a daycare at any time their child is attending. This is not addressed in the City Ordinance.

39-1112 (A) (Access to Information)

This is not addressed in the City Ordinance, however the City has always maintain a list of licensed daycares as noted in 5.03.060 (B)

39-1113 vs. 5.03.110 (Denial, Suspension, Revocation of License)

The City Ordinance matches the State Statute regarding this subject but the State took it one step further to include more reasons for denial, revocation, or suspension of license as well as including some specific examples.

39-1114 (Limited Applications)

This statute will not apply since the City will require a business license for all daycares, so all daycares will need to be State licensed.

39-1115, 39-1116 & 39-1117 vs. 5.03.120 A& B (enforcement)

These sections cover enforcement and prosecution. The State Statute explains this process in language that is easier to understand than the City Ordinance. The City of Hailey Staff will still conduct inspections, investigate complaints, and approve the business licenses for all daycares in the City. There is no change in our enforcement except that it is no longer under the City's Daycare Ordinance it will now fall under the Business License Ordinance.

39-1118 vs. 5.03.090 (immunizations)

These two sections are verbatim.

39-1119 vs. 5.03.050 (2)

These sections cover continuing education credits that are required to maintain a daycare license. State placed the requirements for CPR training in the "Safety Standards" section (g) and the City covers this in this section. The City Ordinance required all daycare staff to be CPR trained. While this is a good idea it is hard for daycares to get all staff trained in a reasonable amount of time due to the lack of training opportunities. If at least one trained staff member is on location at all times then it satisfies the intention of the requirement. We will still recommend that all staff and for that matter all citizens to be CPR trained but it will no longer be a requirement. The required continuing education can now be from several other recourses approved by the state instead of just Idaho Stars. This allows for a little more diversity in training and education with a wider range of topics and venues for completing education requirements.

39-1120

This section states that the rules are nondelegable. This is also addressed the same way in 5.03.120 B

Hopefully this helps clarify the reasons city staff recommended repeal of the separate city daycare license. The choices were to remove the ordinance or rewrite it, and we felt there was no reason to rewrite the ordinance if we were not going to require a more stringent set of standards than the State is currently requiring.

The City of Hailey has never and will never rely on State Employees for enforcement of any codes or standards that the City has adopted. As it stands right now the State Statute on daycares covers all the standards that the city has always enforced. In the event that the State Statute changes to a lesser standard the City Staff will have to reevaluate and possibly adopt a new ordinance. The goal was to make it easier for our daycares to obtain a license from the State by eliminating redundancies in the process. By eliminating the daycare ordinance and requiring daycares to get a business license we are still able to enforce the same high standards that the City of Hailey has always required with a lot less paperwork. Please feel free to contact me with any questions.

Sincerely,
Capt. Mike Baledge
Fire Marshal
City of Hailey.

HAILEY ORDINANCE NO. 1095

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, BY AMENDING CHAPTER 5.02, LICENSES GENERALLY, TO ADD A PURPOSE SECTION AND AN APPLICABILITY SECTION, TO AMEND THE DEFINITION OF BUSINESS OR OCCUPATION, TO EXEMPT HOME OCCUPATIONS FROM THE REQUIREMENTS OF CHAPTER 5.02 AND TO ADD A STANDARD FOR ISSUANCE OF A BUSINESS LICENSE FOR CHILD CARE SERVICES; BY REPEALING CHAPTER 5.03, CHILD CARE FACILITY LICENSING; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and the City Council of the City of Hailey wish to eliminate duplication between city and state permitting for businesses operating within the City of Hailey while maintaining public safety and reducing costs and time associated with permitting incurred by the city and the applicant;

WHEREAS, Chapter 5.03 of the Hailey Municipal Code was originally adopted on September 13, 1999 by Ordinance No. 740 when state licensing requirements for child care facilities were not considered to be adequate by the City of Hailey to protect the safety of occupants of child care facilities located within the City of Hailey;

WHEREAS, Idaho State Code Title 39, Chapter 11 establishes regulations for child care providers and Idaho Administrative Procedures Act (IDAPA) establishes procedures for implementing the state regulations.

WHEREAS, Idaho Legislature has granted authority to the Department and Board of Health and Welfare to adopt and enforce rules governing standards for licensure or certification of child care facilities.

WHEREAS, the Idaho Department of Health and Welfare conducted extensive information gathering from local cities during late 2008 through early 2010 resulting in revisions to the state requirements, which were adopted in 2010 (*see* IDAPA 16.06.02 – Standards for Child Care Licensing);

WHEREAS, in April 2011, the state revised IDAPA 16.06.02 – Standards for Child Care Licensing, which became effective July 1, 2011. This regulation requires proof that daycare applicants meet local building, electrical, fire and planning and zoning codes;

WHEREAS, the current state day care licensing regulations mirror the requirements set forth in Chapter 5.03 of the Hailey Municipal Code and are therefore duplicative;

WHEREAS, City of Hailey Fire Marshal and Fire Inspectors are required to be State Certified Fire Inspector and are required to inspect all child care facilities for state licensing purposes and therefore are involved in the regulation of child care facilities located within the City of Hailey; and

WHEREAS, the Mayor and City Council find that such an amendment will further the public health, safety and general welfare.

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

Section 1. Chapter 5.02 of the Hailey Municipal Code is amended by the addition of a new Section 5.02.005 as follows:

Section 5.02.005 Purpose. The purpose of the city of Hailey business license is to provide a process whereby the city is able to confirm buildings within the city of Hailey are safe to occupy and the use and building are compatible and comply with all applicable city requirements, such as building, fire, and zoning codes and to coordinate city and state regulations, to the greatest extent possible, to facilitate the permitting process for business owners.

Section 2. Section 5.02.010 of the Hailey Municipal Code is amended by the deletion of the stricken language, as follows:

5.02.010 Definitions. In construing the provisions of this chapter, the following definitions shall apply:

“Business” or “occupation” means all activities, trades, and pursuits conducted or engaged in for profit, ~~including without limitation, wholesale businesses, retail businesses, and personal service businesses and professions, in any and all situations where suppliers, vendors, customers, clients, and/or members of the general public visit or frequent the premises where the business or occupation is conducted, but shall not mean home occupations as defined by the Hailey Zoning Ordinance, Hailey Ordinance No. 532, as amended.~~

“City” means the city of Hailey, Idaho.

“City clerk” means the city clerk of the city of Hailey, Idaho, or his/her designee acting as the licensing officer.

“Not-for-profit business” means any organization exempt from taxation as provided by 26 USC 501 and meeting all the requirements for the exemption provided by USC 26 USC 503.

“Person” means any individual, firm, partnership, company, corporation, joint venture, association, or other business entity.

“Premises” means all real property and structures where any business or occupation is conducted.

“Public street or place” as used in this chapter means sidewalk, street, alley, highway, public right-of-way, park, parking lot, or other place owned in fee by the city or in, on or over which an easement exists in the name of or held by the city, or which exists for the benefit and use of the public.

Section 3. Chapter 5.02 of the Hailey Municipal Code is amended by the addition of a new Section 5.02.015 as follows:

Section 5.02.015 Applicability. Except as otherwise provided in Section 5.02.030, it shall be unlawful for any person to conduct a business within the City of Hailey in any and all situations where suppliers, vendors, customers, clients, and/or members of the general public visit or frequent the premises where the business or occupation is conducted, including without limitation, wholesale businesses, retail businesses, personal service businesses, professional service businesses, child care services, restaurants and bars, without first applying for and being granted by the city a Business License.

Section 4. Section 5.02.030 of the Hailey Municipal Code is amended by the addition of the underlined language as follows:

5.02.030 Exceptions. The following activities are exempted from the provisions of this chapter:

- A. Any sales under court order;
- B. A bona fide auction sale;
- C. Garage, yard, or similar sales by individual at their residence or place of business not exceeding twice in one calendar year; which sales shall not include business inventory; and
- D. Any business activity or event approved under Chapter 5.24 (Fireworks) or Chapter 12.14 (Special Events) of the Hailey Municipal Code.
- E. Home occupations as defined by the Hailey Zoning Ordinance, Hailey Ordinance No. 532, as amended.

Section 5. Section 5.02.040 of the Hailey Municipal Code is amended by the addition of the underlined language, as follows:

5.02.040 Standards for issuance of license. A license shall be issued by the city clerk only to applicants who meet the following requirements:

- A. Compliance with Building and Fire Regulations. The business and premises for which the license application is made has not been cited by the building or fire departments for a violation of the adopted International Building or Fire Code, or, having been cited for such a violation, is in the process of correcting the violation to the satisfaction of the building official or fire chief. The applicant shall specify what steps are being taken to correct the violation. Businesses relocating in new structures or remodeled structures and all new businesses opening for the first time shall have obtained a certificate of occupancy furnished by the city building inspector establishing that the premises are not in violation of the applicable International Building Code and applicable International Fire Code.
- B. Compliance with Zoning Requirements. The business and premises for which the application is made are not in violation of any zoning regulations.
- C. Water & Sewer Connection Required. The business and premises for which the application is made shall be connected to city water and sewer systems, and shall not be in violation of any section of Chapter 13 of the Hailey Municipal Code.

D. The business and premise for which the application is made shall not be placed upon or encroach upon any public street or place, with the exceptions of sidewalks. Encroachments upon private parking or yard areas, public sidewalks or other areas outside of a business structure connected to city water and sewer systems shall be shown clearly upon the business license application and shall not restrict a clear six-foot lane for pedestrian traffic. The encroachment must meet all other applicable rules, regulations, and ordinances of the city of Hailey.

E. The intended use of any business areas outside of a business structure connected to city water and sewer systems, whether upon public sidewalks or private parking and yard areas shall be shown upon the application, and shall be restricted to the same use and business activity as is conducted within the business structure connected to city water and sewer systems.

F. Any business providing child care services, regardless of the number of children being cared for, shall obtain a State of Idaho Child Care License, pursuant to Idaho Code Title 39, Chapter 11 and Idaho Administrative Procedures Act (IDAPA) Standards for Child Care Licensing and shall provide the city a copy of such state license and shall provide the full names of all employees and volunteers. The full names of any new employees or volunteers hired at any time after a business license has been approved are required to be submitted to the city.

Section 6. Chapter 5.03 of the Hailey Municipal Code, Child Care Facility Licensing, is repealed in its entirety.

Section 7. 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 8. Repealer Clause. All ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 9. Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this _____ day of November, 2011.

Richard L. Davis, Mayor

ATTEST:

Mary Cone, City Clerk

Publish: Idaho Mountain Express _____, 2011

AGENDA ITEM SUMMARY

DATE: 11/28/2011

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Summary of Hailey Ordinance No. 1095 (Daycare ordinance amendment)

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a summary of Hailey Ordinance No. 1095 which repeals Hailey's daycare licensing provisions.

Ned

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)
____ 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:

Make a motion to approve the summary of Hailey Ordinance No. 1095.

FOLLOW-UP REMARKS:

SUMMARY OF HAILEY ORDINANCE NO. 1095

The following is a summary of the principal provisions of Ordinance No. 1095 of the City of Hailey, Idaho, duly passed and adopted November 28, 2011, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, BY AMENDING CHAPTER 5.02, LICENSES GENERALLY, TO ADD A PURPOSE SECTION AND AN APPLICABILITY SECTION, TO AMEND THE DEFINITION OF BUSINESS OR OCCUPATION, TO EXEMPT HOME OCCUPATIONS FROM THE REQUIREMENTS OF CHAPTER 5.02 AND TO ADD A STANDARD FOR ISSUANCE OF A BUSINESS LICENSE FOR CHILD CARE SERVICES; BY REPEALING CHAPTER 5.03, CHILD CARE FACILITY LICENSING; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Hailey Ordinance No. 1085 amends Title 13 of the Hailey Municipal Code, as follows:

Section 1 amends Chapter 5.02, Licenses Generally, of the Hailey Municipal Code to add a new Section 5.02.005 adding a Purpose section.

Section 2 amends Section 5.02.010 of the Hailey Municipal Code to amend the definition of business or occupation.

Section 3 amends Chapter 5.02, Licenses Generally, of the Hailey Municipal Code to add a new Section 5.02.015 adding an Applicability section, to generally provide that it is unlawful to conduct a business in Hailey without a Business License.

Section 4 amends Section 5.02.030 of the Hailey Municipal Code to except home occupations from the requirements of a business license.

Section 5 amends Section 5.02.040 of the Hailey Municipal Code to add a standard for a business license requiring a business providing child care services to obtain a State of Idaho Day Care License prior to the issuance of a city Business License.

Section 6 repeals Chapter 5.03, Child Care Facility Licensing, of the Hailey Municipal Code in its entirety.

Section 7 provides for a severability clause.

Section 8 provides for a repealer clause.

Section 9 provides for an effective date of the ordinance.

The full text of Ordinance No. 1095 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1095 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1095, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this _____ day of November, 2011.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, _____, 2011.