

AGENDA ITEM SUMMARY

DATE: December 14, 2009

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: 

SUBJECT: Third Reading Ordinances 1041, 1042, and 1043

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On November 23, 2009, the Hailey City Council held a public hearing and conducted the first readings of Ordinances 1041, 1042, and 1043. The second reading was held November 30.

Ordinance 1041 – amending Zoning Ordinance 532 Section 11 to set forth Conditional Use Permit Standards for Small Scale Wind Energy Systems in certain zones.

Ordinance 1042 – amending Zoning Ordinance 532 Sections 2 and 4, to establish definitions for Small Scale Wind Energy Systems and Solar Panels and identify how they are permitted in zones.

Ordinance 1043 - amending Zoning Ordinance 532 Section 6A Design Review Standards to exclude Small Scale Wind Energy Systems and Solar Panels from rooftop screening requirements.

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: (IFAPPLICABLE)

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

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct the third reading of Ordinance 1041, 1042, and 1043 and authorize the Mayor to sign.

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 ORDINANCE NO. 1041

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING ARTICLE 11 OF HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 11.4, TO ESTABLISH A NEW SECTION, SECTION 11.4.2, TO ESTABLISH CONDITIONAL USE PERMIT STANDARDS FOR SMALL SCALE WIND ENERGY SYSTEMS; BY AMENDING SECTION 11.8.2, TO REQUIRE SMALL SCALE WIND ENERGY SYSTEMS TO BE REMOVED ONCE EXPIRED AND TO SPECIFY WHEN A SMALL SCALE WIND ENERGY SYSTEM IS CONSIDERED TO BE DISCONTINUED; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services;

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public; and

WHEREAS, the proposed uses are compatible with the surrounding area.

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

Section 1. Hailey Zoning Ordinance No. 532, is hereby amended with the addition of a new Section 11.4.2, as follows:

11.4.2 Small Scale Wind Energy Systems (WEC). For Small Scale Wind Energy Systems, the Commission or Hearing Examiner shall review the particular facts and circumstances of each proposed conditional use in terms of the standards below. The applicant for any WEC has the burden of demonstrating compliance with these standards and if required by the Building Official, shall obtain a building permit prior to installing any WEC.

- a. The height of roof-mounted WECs shall not exceed 10 feet beyond the maximum building height requirement for the applicable district. The measured height shall include the entire system, including the blade radius.
- b. Any plan for a roof mounted WEC shall be stamped by a structural engineer.
- c. The rotor diameter shall not exceed 7 feet for a freestanding or roof-mounted system.
- d. The average wind speed shall meet or exceed the minimum required by the Small Scale Wind Energy System manufacture's specification. Wind speed information shall be measured by an anemometer at the height and location of the proposed WEC.
- e. The height of freestanding WECs shall not exceed the maximum building height requirement for the applicable district.

- f. Freestanding WECs are limited to one (1) per lot(s) held in single ownership.
- g. Minimum setback of freestanding WECs is two times the tower height from the property line, measured from the tallest point of WEC. This standard does not apply to roof mounted systems.
- h. Any WEC shall comply with the maximum permissible noise level. Every use shall be operated such that the noise level produced does not inherently and recurrently exceed twenty (20) decibels beyond ambient noise levels, during the hours of 7:00 A.M. to 7:00 P.M., or ten (10) decibels beyond ambient noise level decibels during the hours of 7:00 P.M. to 7:00 A.M. During the hours of 7:00 A.M. to 7:00 P.M., the noise levels permitted may increase a maximum of five (5) decibels for a period not to exceed fifteen (15) minutes in any one (1) hour.
 - 1. Measurement Along Property Boundary. Noise levels shall be measured at any point along any boundary line of the property on which the use is located.
 - 2. Measurement Along the Property Owner's building wall. Where there is more than one (1) property ownership in a building (*e.g.*, a condominium or attached townhome), the noise levels shall be measured along any adjacent wall of a property owner.
- i. Any WEC shall generate no perceptible vibration. Every use shall be operated so that it does not inherently and recurrently generate a ground vibration that is perceptible, without instruments, at any point along any boundary line of the property on which the use is located. Where there is more than one (1) property ownership in a building (*e.g.*, a condominium or attached townhome), this standard shall be measured along any adjacent wall of a property owner.
- j. Alternative locations and placement within the subject property shall be evaluated to ensure that the placement of any WEC is optimal to minimize visual impacts to adjacent properties and viewsheds while still maintaining access to the site's wind resource.

Section 2. Section 11.8.2 of the Hailey Zoning Ordinance No. 532, is hereby amended with the addition of the underlined language as follows

11.8.2 A conditional use permit is void six (6) months after the use for which it is issued is discontinued.

a. A conditional use permit for a Small Scale Wind Energy Systems that is not maintained in good repair and in working condition shall be considered to be a discontinuation of use. A Small Scale Wind Energy System with a void conditional use permit shall be completely removed and no remnant of the system shall be visible from any public right-of-way or private property.

Section 3. Severability Clause. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 4. Repealer Clause. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 5. Effective Date. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2009.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk, City of Hailey

HAILEY ORDINANCE NO. 1042

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING ARTICLE 2 AND ARTICLE 4 OF HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 2.2, TO ADD THE DEFINITION OF SMALL SCALE WIND ENERGY SYSTEMS AND SOLAR PANELS; AMENDING SECTIONS 4.2.3, 4.3.3, 4.4.3, 4.5.3, 4.6.3, 4.7.3, 4.8.3, 4.9.3, 4.11.3, 4.12.2.2, AND 4.12.3.2, TO ALLOW FOR FREESTANDING SOLAR PANELS AS CONDITIONAL USES; AMENDING SECTIONS 4.2.4, 4.3.4, 4.4.4, 4.5.4, 4.6.4, 4.7.4, 4.8.4, 4.9.4, 4.11.4, 4.12.2.3, AND 4.12.3.3, TO ALLOW FOR ROOF-MOUNTED SOLAR PANELS AS AN ACCESSORY USE; AMENDING SECTIONS 4.7.3, 4.12.2.2, 4.12.3.2, 4.8.3, AND 4.11.3, TO ALLOW FREESTANDING WIND ENERGY SYSTEMS AND ROOF-MOUNTED WIND ENERGY SYSTEMS AS A CONDITIONAL USE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services; and

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public.

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

Section 1. Section 2.2, Definitions, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

Small Scale Wind Energy System (WES). An electric generator(s) having rated capacities of 2 kilowatts and less, that utilize wind energy to produce clean, emissions-free power.

Solar Panels. A group of connected solar cells, used to convert light from the sun into energy that can be used.

Section 2. Section 4.3.3, General Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by addition of the underlined language as follows:

4.3.3 Conditional Uses.

Conditional uses for the GR District are limited to the following:

- a. Bed and Breakfast Inns.
- b. Boarding and Rooming Houses.

- c. Day Care Centers provided no more than eighteen (18) children will be cared for at any one time.
- d. Public Service, Public Use and Public Utility Facilities.
- e. Semi-Public Uses.
- f. PWSF's or WCF's, attached to street poles or mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIII A of this Ordinance. (Freestanding and lattice towers are prohibited.)
- g. Above ground flammable and combustible liquid tanks utilized by a public use.
- h. Temporary Structures.
- i. Horses. A maximum of two (2) horses per acre on lots of one (1) acre minimum size.
- j. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 3. Section 4.3.4, General Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.3.4 Accessory Uses.

Accessory uses for the GR District are limited to the following:

- a. Greenhouse/private.
- b. Garages.
- c. Storage buildings.
- d. Swimming pools.
- e. One Accessory Dwelling Unit on lots of 7,000 square feet or larger, accessory to a single family dwelling unit or to a non-residential Principal Building. Primary vehicular access to any accessory dwelling unit shall be from a City street or alley. All Accessory Dwelling Units shall have adequate water and sewer services installed to meet City Standards.
- f. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 4. Section 4.5.3, Limited Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.5.3 Conditional Uses.

Conditional uses in the LB District are limited to the following:

- a. Gasoline Stations and Automotive Repair and Maintenance.
- b. Restaurants.
- c. Wholesale distributors.
- d. Convenience Stores.
- e. Public Service, Public Use and Public Utility Facilities.
- f. Medical and personal care stores.
- g. Finance and insurance firms.
- h. Construction contractors' offices with no exterior storage.
- i. PWSF's and WCF's, mounted on any proposed freestanding tower, upon the

issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited.)

- j. Above ground flammable liquid tanks utilized by a public use.
- k. Temporary Structures.
- l. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 5. Section 4.5.4, Limited Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.5.4 Accessory Uses.

Accessory uses in the LB District are limited to the following:

- a. Greenhouses/private.
- b. Garages.
- c. Storage buildings.
- d. One Accessory Dwelling Unit, on lots of 7,000 square feet or larger, accessory to a single family dwelling unit or to a non-residential Principal Building. Primary vehicular access to any accessory dwelling unit shall be from a City street or alley. All Accessory Dwelling Units shall have adequate water and sewer services installed to meet City Standards.
- e. All PWSF's or WCF's, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- f. Above ground combustible liquid tanks.
- g. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 6. Section 4.6.3, Transitional District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.6.3 Conditional Uses.

Conditional uses in the TN District are limited to the following:

- a. Multi-Family Dwellings.
- b. Non-profit recreation center.
- c. Bed and Breakfast Inn.
- d. Day Care Centers.
- e. Personal Services.
- f. Public Service, Public Use and Public Utility Facilities.
- g. Semi-Public Uses.
- h. PWSF's or WCF's, attached to street poles and mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Freestanding towers are prohibited.)
- i. Above ground flammable and combustible liquid tanks utilized by a public

- use.
- j. Temporary Structures.
- k. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 7. Section 4.6.4, Transitional District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.6.4 Accessory uses.

Accessory uses in the TN District are limited to the following:

- a. Greenhouse/private.
- b. Storage buildings.
- c. One Dwelling Unit on lots of 7,000 square feet or larger, accessory to a Single Family Dwelling Unit or to a non-residential Principal Building. Primary vehicular access to any Accessory Dwelling Unit shall be from a City street or alley. All Dwelling Units shall have adequate water and sewer services installed to meet City Standards.
- d. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 8. Section 4.2.3, Limited Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.2.3 Conditional Uses.

Conditional uses for the LR District are limited to the following:

- a. Public Service, Public Use and Public Utility Facilities.
- b. Day Care Facilities.
- c. PWSF's or WCF's, attached to street poles or mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Freestanding and lattice towers are prohibited.)
- d. Above ground flammable and combustible liquid tanks utilized by a public use.
- e. Temporary Structures.
- f. Horses. A maximum of two (2) horses per acre on lots of one (1) acre minimum size.
- g. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 9. Section 4.2.4, Limited Residential District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.2.4 Accessory Uses.

Accessory uses for the LR District are limited to the following:

- a. Greenhouse/private.
- b. Garages.
- c. Storage buildings.
- d. Swimming pools.

- e. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 10. Section 4.7.3, Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.7.3 Conditional Uses.

Conditional uses for the B District are limited to the following:

- a. Public Service, Public Use and Public Utility Facilities.
- b. Parking lots and parking garages not associated with a permitted use.
- c. Auto dealerships.
- d. Automotive Repair and Maintenance.
- e. Hybrid Production Facilities.
- f. Outpatient Animal Services.
- g. Churches.
- h. PWSF's and WCF's, mounted on any proposed freestanding tower upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited.)
- i. Above ground flammable liquid tanks utilized by a public use.
- j. Temporary Structures.
- k. Roof-mounted and Freestanding Small Scale Wind Energy Systems (WES).
- l. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 11. Section 4.7.4, Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.7.4 Accessory Uses.

- a. Storage buildings.
- b. Garages.
- c. All PWSF's or WCF's, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- d. Above ground combustible liquid tanks.
- h. One Accessory Dwelling Unit on lots of 7,000 square feet or larger, accessory to a non-residential Principal Building.
- i. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 12. Section 4.12.2.2, Service Commercial Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.12.2.2 Conditionally Permitted uses for the **SCI - SO** sub-district include the following:

- a. Dance and martial art studios, fitness facilities.

- b. Day care businesses.
- c. Hotels or motels with or without attached restaurants.
- d. Laundromat, dry cleaning and laundry.
- e. Pet grooming, training and veterinarians, with no outdoor kenneling
- f. Public service facilities, public utility facilities and public uses.
- g. Restaurants. Drive-through service windows are not allowed.
- h. Restaurants attached to or adjacent to hotels or motels. Drive-through service windows are not permitted.
- i. PWSF's and WCF's, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited.)
- j. Temporary Structures.
- k. Roof-mounted and Freestanding Small Scale Wind Energy Systems (WES).
- l. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 13. Section 4.12.2.3, Service Commercial Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.12.2.3 Accessory Uses within the **SCI - SO** sub-district are limited to the following:

- a. One accessory dwelling unit, accessory to a non-residential Principal Building.
- b. Storage buildings.
- c. All PWSF's or WCF's, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- d. Sales incidental to a non-retail Principal Use.
- e. Offices accessory to a non-office Principal Use.
- f. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 14. Section 4.12.3.2, Service Commercial Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.12.3.2 Conditionally Permitted uses for the **SCI - I** sub-district include the following:

- a. Convenience stores, in conjunction with Gasoline Stations that have no more than 1800 square feet of gross floor area. Drive-through service windows are not allowed.
- b. Gasoline Stations, including card-lock stations.
- c. Public utility facilities, public service facilities and public uses.
- d. Restaurants. Drive-through service windows are not allowed.
- e. PWSF's and WCF's, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited)
- f. Temporary Structures.
- g. Roof-mounted and Freestanding Small Scale Wind Energy Systems (WES).

- h. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 15. Section 4.12.3.3, Service Commercial Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.12.3.3 Accessory Uses within the **SCI-I** sub-district are limited to the following:

- a. All PWSF's or WCF's, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- b. Shipping containers utilized for storage. These containers must be shielded from view by fencing or landscaping, and shall require a building permit.
- c. Storage buildings.
- d. Sales incidental to a non-retail Principal Use.
- e. Offices accessory to a non-office Principal Use.
- f. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 16. Section 4.8.3, Light Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.8.3 Conditional Uses.

Conditional uses for the LI District are limited to the following:

- a. Veterinary clinics and animal hospitals.
- b. Indoor recreational facilities primarily for instruction.
- c. PWSF's and WCF's, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited.).
- d. Temporary Structures.
- e. Roof-mounted and Freestanding Small Scale Wind Energy Systems (WES).
- f. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 17. Section 4.8.4, Light Industrial District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.8.4 Accessory Uses.

Accessory uses in the LI District are limited to the following:

- a. Storage buildings.
- b. All PWSF's or WCF's, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- c. Above Ground Combustible Liquid Tanks.
- d. Above Ground Flammable Liquid Tanks.
- e. Offices.
- f. Shipping containers utilized for storage. These containers must be shielded from view by fencing or landscaping, and shall require a building permit.
- g. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 18. Section 4.11.3, Airport District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.11.3 Conditional Uses.

Conditional Uses for the A District are limited to the following:

- a. Temporary Structures
- b. Hotels
- c. Business parks
- d. PWSFs and WCFs, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Lattice towers are prohibited.)
- e. Roof-mounted and Freestanding Small Scale Wind Energy Systems (WES).
- f. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 19. Section 4.11.4, Airport District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.11.4 Accessory Uses.

Accessory Uses for the A District are limited to the following:

- a. Automobile parking areas
- b. Storage buildings
- c. Control tower
- d. Fire protection and emergency preparedness areas
- e. Lighting and aircraft approach aids.
- f. Above Ground Combustible Liquid Tanks.
- g. Above Ground Flammable Liquid Tanks.
- h. All PWSFs or WCFs, mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- i. Roof-mounted Solar Panels, subject to the maximum building height for the applicable

district.

Section 20. Section 4.9.3, Technological Industry District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.9.3 Conditional Uses:

Conditional uses of the TI District are limited to the following:

- a. PWSF's and WCF's, mounted on any proposed freestanding tower, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.(Lattice towers are prohibited.)
- b. Above ground flammable liquid tanks utilized by a public use.
- c. Temporary Structures.
- d. Physical fitness facilities.
- e. Freestanding Solar Panels, subject to the maximum building height for the applicable district.

Section 21. Section 4.9.4, Technological Industry District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.9.4 Accessory Uses.

Accessory uses in the TI District are limited to the following:

- a. Storage buildings.
- b. All PWSF's or WCF's mounted on existing buildings or structures upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance.
- c. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 22. Section 4.4.3, Neighborhood Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.4.3 Conditional Uses.

Conditional uses for the NB District are limited to the following:

- a. Mercantile (wholesale and retail).
- b. Churches.
- c. Professional Offices, excluding veterinarians.
- d. Semi-Public uses.
- e. Restaurants which may or may not include the sale of alcoholic beverages.
- f. Catering Services.
- g. Laundromats and dry cleaners.
- h. Temporary Structures
- i. PWSFs or WCF's, attached to street poles or mounted on existing buildings or structures, upon the issuance of a Wireless Permit in accordance with the provisions of Article VIIIA of this Ordinance. (Freestanding and lattice towers are prohibited.)
- j. Freestanding Solar Panels, subject to the maximum building height for the applicable

district.

Section 23. Section 4.4.4, Neighborhood Business District, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

4.4.4 Accessory Uses.

- a. Garages and Storage buildings.
- b. One Accessory Dwelling Unit on lots of 7,000 square feet or larger, accessory to a non-residential Principal Building.
- c. Roof-mounted Solar Panels, subject to the maximum building height for the applicable district.

Section 24. Severability Clause. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 25. Repealer Clause. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 26. Effective Date. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2009.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

HAILEY ORDINANCE NO. 1043

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING ARTICLE 6A OF HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTIONS 6A.7.2.1(C)(2), 6A.7.2.2(C)(3), 6A.7.2.3(C)(3), AND 6A.7.2.4.III(C)(10), TO EXCLUDE SMALL SCALE WIND ENERGY SYSTEMS FROM ROOFTOP SCREENING REQUIREMENTS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance is in accordance with the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services;

WHEREAS, the proposed uses are compatible with the surrounding area; and

WHEREAS, the amendments will promote the public health, safety, and general welfare.

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

Section 1. Section 6A 7.2.1(C) (2), Design Review Guidelines for Non-Residential Buildings, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

C. Fences and Equipment/Utilities.

2. All roof projections including, but not limited to air conditioning units, all mechanical equipment and solar panels, excluding Small Scale Wind Energy Systems that have received a Conditional Use Permit, should be shielded and architecturally screened from view from on-site parking areas, adjacent streets and adjacent properties.

The use of alternative energy sources is encouraged, however, the hardware for these features should be incorporated as an integral part of the building as an add-on which detracts from the building and its surroundings. No special requirements should be taken for communications facilities to be installed on the building that do not conflict with each other.

Section 2. Section 6A 7.2.2(C) (3), Design Review Guidelines for Single-Family Residential (LI), Industrial (LI), Service Commercial Industrial (SCI), Technical (TI), and Medium Density Residential (MDR), of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

C. Accessory Structures, Fences and Equipment/Utilities.

3. **All roof projections including, but not limited to air conditioning units, all mechanical equipment and solar panels, excluding Small Scale Wind Energy Systems that have received a Conditional Use Permit, shall be shielded and architecturally screened from view from on-site parking areas, adjacent public streets and adjacent properties.**

The use of alternative energy sources is encouraged, however, the hardware associated with these features should be incorporated as an integral part of the building's design rather than as an add-on which detracts from the building and its surroundings. Special consideration should be given to communications facilities to insure that the number and design of them not conflict with each other

Section 3. Section 6A 7.2.3 (C) (3), Design Review Guidelines for Multi-Family Residential Buildings In General Residential (GR), Transitional (TN), Limited Business (LB), Business (B), Neighborhood Business (NB), and Service Commercial Industrial (SCI), of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

C. Fences and Equipment/Utilities.

2. **All roof projections including, but not limited to air conditioning units, all mechanical equipment and solar panels, excluding Small Scale Wind Energy Systems that have received a Conditional Use Permit, should be shielded and architecturally screened from view from on-site parking areas, adjacent public streets and adjacent properties.**

The use of alternative energy sources is encouraged, however, the hardware associated with these features should be incorporated as an integral part of the building's design rather than as an add-on which detracts from the building and its surroundings. Special consideration should be taken for communications facilities to insure that the number and design of them not conflict with each other.

Section 4. Section 6A 7.2.4.III (C) (10), Design Review Guidelines For Residential And Non-Residential Buildings In The Townsite Overlay District (TO), of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the underlined language as follows:

10. Non-residential and Multi-family Uses

Non-residential uses and residential uses of three (3) units or greater will be reviewed by the Hailey Planning and Zoning Commission. The Commission will use the Guidelines below and all of the other Guidelines in this document as applicable for these projects, in conjunction with other applicable Design Review Guidelines as set forth in Article 6A of the Hailey Zoning Ordinance.

Guideline: Non-residential uses in Old Hailey should be designed with a residential, human scale in mind.

Guideline: Parking for non-residential uses shall be carefully planned to avoid pedestrian conflicts, and to be subordinate to other design elements on the site.

- See also Section 4 for other applicable parking guidelines.

Guideline: Utilities for non-residential and multifamily structures shall be integrated into the site design. Utilities should, in most cases, be fully screened from view.

- Exhaust hoods, rooftop vents and air conditioner units should be screened from view, either with a parapet wall or by integrating these items into interior roof elements. Small Scale Wind Energy Systems that have received a Conditional Use Permit are excluded from these screening requirements.

- Transformers, gas meters and other site infrastructure should be located in a manner to avoid being seen from entrances, public streets and pedestrian areas. If they cannot be hidden, they should be screened with landscaping, fencing or building walls.

Section 5. Severability Clause. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

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

Section 7. Effective Date. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2009.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk, City of Hailey

HAILEY ORDINANCE NO. 1045

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)~~ 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.

~~(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.

~~(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.

~~(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.

(140) 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

