

HAILEY ORDINANCE NO. 985

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY’S MUNICIPAL CODE BY ADDING A NEW CHAPTER 15.16, TITLE 15, ENTITLED “DEVELOPMENT IMPACT FEES”; 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, Idaho Code § 67-8201 *et seq.* allows Idaho municipal corporations to enact ordinances allowing them to collect development impact fees;

WHEREAS, Idaho Code § 67-8201 *et seq.* allow such ordinances to collect development impact fees for the impacts of development upon public facilities including water supply production, treatment, storage and distribution facilities; wastewater collection, treatment and disposal facilities; roads, streets and bridges, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways; storm water collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements; parks, open space and recreation areas, and related capital improvements; and public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities;

WHEREAS, Hailey now desires to adopt a development impact fee ordinance to collect development impact fees in accordance with Idaho Code §§ 67-8201 *et seq.*; and

WHEREAS, Hailey has adopted this development impact fee ordinance in accordance with the procedural requirements of Idaho Code § 67-8206.

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

Section 1. ADOPTION. Hailey Municipal Code is amended by the addition a new Chapter 15.16, entitled “Development Impact Fees”, with the addition of the following language:

**CHAPTER 15.16
DEVELOPMENT IMPACT FEES**

15.16.010 Findings and Purpose.

15.16.010.01 Findings.

A. Based on the City of Hailey Comprehensive Plan adopted by the City, pursuant to Chapter 65, Title 67, Idaho Code, including but not limited to the Capital Improvements Element of the Comprehensive Plan, and based the general

governmental goal of protecting the health, safety, and general welfare of the citizens of the City, it is necessary that the City's public facilities for (1) parks and recreation, (2) transportation, (3) police, and (4) fire/emergency medical services (EMS) be expanded and improved to accommodate new development within the City. Throughout this Ordinance, the System Improvements for these four types of public facilities are sometimes collectively referred to as the "City Capital Facilities" and sometimes individually referred to as a "City Capital Improvements Element."

B. The City has formed the Development Impact Fee Advisory Committee as required by Idaho Code §67-8205, and that Committee has performed the duties required of it pursuant to Idaho Code §§67-8205 and 67-8206(2). The City intends that the Committee continue to exist and to perform those duties identified in Idaho Code §67-8205 that occur following the adoption of Development Impact Fees.

C. New residential and nonresidential development imposes and will impose increasing and excessive demands upon City Capital Facilities.

D. The revenues generated from new residential and non-residential development often do not generate sufficient funds to provide the necessary improvements of these City Capital Facilities to accommodate new development.

E. New development is expected to continue, and will place ever-increasing demands on the City to provide and expand City Capital Facilities to serve new development.

F. The City has planned for the improvement of the City Capital Facilities in the Capital Improvements Element of the City of Hailey Comprehensive Plan.

G. Chapter 82, Title 67 of the Idaho Code (the Idaho Development Impact Fee Act) authorizes the City to adopt a Development Impact Fee system to offset, recoup, or reimburse the portion of the costs of needed improvements to the City Capital Facilities caused by new development in the City.

H. The creation of an equitable Development Impact Fee System would promote the purposes set forth in the Idaho Development Impact Fee Act, in that it would (a) ensure that adequate public facilities are available to serve new growth and development, (b) promote orderly growth and development by establishing uniform standards by which the City may require that those who benefit from new growth and development pay a proportionate share of the cost of new public facilities needed to serve new growth and development, (c) establish minimum standards for the adoption of Development Impact Fees, (d) ensure that those who benefit from new growth and development are required to pay no more than their proportionate share of the cost of public facilities needed to serve new growth and development and (d) prevent duplicate and ad hoc development requirements.

I. The creation of an equitable Development Impact Fee system would enable the City to accommodate new development, and would assist the City to implement the Capital Improvements Element of the Comprehensive Plan.

J. In order to implement an equitable Development Impact Fee system for the City Capital Facilities, the City retained TischlerBise to prepare an impact fee study for these types of facilities. The resulting document is titled “City of Hailey, Idaho, Capital Improvements Plan and Development Impact Fees, dated March 23, 2007 (the “Development Impact Fee Study”). The Development Impact Fee Study was prepared by qualified professionals in the fields relating to finance, engineering, planning and transportation. TischlerBise has consulted with the Hailey City Council and the Development Impact Fee Advisory Committee.

K. The methodology used in preparing the Development Impact Fee Study, when applied through this Ordinance, complies with all applicable provisions of Idaho law, including those set forth in Idaho Code §§67-8204(1), (2), (16) and (23), 67-8207 and 67-8209. The incorporation of the Development Impact Fee Study by reference satisfies the requirement in Idaho Code Statute §67-8204(16) for a detailed description of the methodology by which the Development Impact Fees were calculated, and the requirement in Idaho Code §67-8204(24) for a description of acceptable levels of service for System Improvements.

L. In determining the proportionate share of the cost of System Improvements, the City has considered (a) the cost of the existing System Improvements, (b) the means by which the existing System Improvements have been financed, (c) the extent to which the new development will contribute to the cost of System Improvements through taxation, assessment, or developer or landowner contributions, or has previously contributed to the cost of System Improvements through developer or landowner contributions; (d) the extent to which the new development is required to contribute to the cost of existing System Improvements in the future; (e) the extent to which the new development should be credited for providing System Improvements, without charge to other properties within the service area or areas; (f) extraordinary costs, if any, incurred in serving the new development; (g) the time and price differential inherent in a fair comparison of fees paid at different times; and (h) the availability of other sources of funding System Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers, and special taxation. The governmental entity shall develop a plan for alternative sources of revenue.

M. The Development Impact Fee Study contains the Capital Improvements Element of the City of Hailey Comprehensive Plan, and such element has been prepared in conformance with the requirements of Chapters 65 and 82 of Title 67 of the Idaho Code.

N. The Development Impact Fee Study sets forth reasonable methodologies and analyses for determining the impacts of various types of new development on the City Capital Facilities, and determines the cost of acquiring or

constructing the improvements necessary to meet the demands for such facilities created by new development.

O. In accordance with Idaho Code, the Development Impact Fee Study was based on actual System Improvement costs or reasonable estimates of such costs. In addition, the Development Impact Fee Study uses a Fee calculation methodology that is net of credits for the present value of revenues that will be generated by new growth and development based on historical funding patterns and that are anticipated to be available to pay for System Improvements, including taxes, assessments, user fees, and intergovernmental transfers.

P. The Development Impact Fees described in this Ordinance are based on the Development Impact Fee Study, and do not exceed the costs of System Improvements for City Capital Facilities to serve new development that will pay the Development Impact Fees.

Q. The facilities for parks and recreation, transportation, police, and fire/emergency medical services (EMS) included in the calculation of fees in the Development Impact Fee Study will benefit all new residential and non-residential development throughout the City, and it is therefore appropriate to treat all areas of the City as a single service area for purposes of calculating, collecting, and spending the Development Impact Fees collected from residential and non-residential development.

R. In accordance with Idaho Code §67-8208, the City of Hailey has adopted a Development Impact Fee for the cost of preparing the Capital Improvements Element of the City of Hailey Comprehensive Plan.

S. There is both a rational nexus and a rough proportionality between development impacts created by each type of development covered by this Ordinance and the Development Impact Fees that such development covered by this Ordinance and the Development Impact Fees that such development will be required to pay.

T. This Ordinance creates a system by which Development Impact Fees paid by new development will be used to finance, defray, or reimburse a portion of the costs incurred by the City to construct improvements for City Capital Facilities in ways that benefit the development for which each Development Impact Fee was paid within a reasonable period of time after the Development Impact Fee is paid, and in conformance with Idaho Code §67-8210.

U. This Ordinance creates a system under which Development Impact Fees shall not be used to correct existing deficiencies for any capita facilities, or to replace or rehabilitate existing improvements, or to pay for routine operation or maintenance of those facilities.

V. This Ordinance creates a system under which there shall be no double payment of impact fees, in accordance with Idaho Code §67-8204(19).

W. This Ordinance is consistent with all applicable provisions of Chapter 82, Title 67, Idaho Code, concerning development impact fee ordinances.

15.16.010.02 Purpose.

A. This Ordinance is adopted to be consistent with, and to help implement the City of Hailey Comprehensive Plan, and particularly the Capital Improvements Element of the Comprehensive Plan.

B. The intent of this Ordinance is to ensure that new development bears a proportionate share of the cost of improvements to the City Capital Facilities; to ensure that such proportionate share does not exceed the cost of improvements to such facilities required to accommodate new development; and to ensure that funds collected from new development are actually used for improvements to the City Capital Facilities in accordance with the Chapter 82, Title 67, Idaho Code.

C. It is the further intent of this Ordinance to be consistent with those principles for allocating a fair share of the cost of new capital facilities to new development, and for adopting development impact fee ordinances, established by Chapter 82, Title 67 of the Idaho Code.

D. It is not the intent of this Ordinance to collect any money from any new development in excess of the actual amount necessary to offset new demands for City Capital Facilities created by such new development.

E. It is not the intent of this Ordinance that any monies collected from any Development Impact Fee deposited in an Impact Fee Account ever be commingled with monies from a different Impact Fee Account, or ever be used for a Development Impact Fee component different from that for which the Fee was paid, or ever be used to correct current deficiencies in the City Capital Facilities or ever be used to replace, rehabilitate, maintain or operate any City facility.

15.16.020 Definitions.

As used in this chapter, the following words and terms shall have the following meanings, unless another meaning is plainly intended:

“Accounts” shall mean the Parks Capital Facilities Account, the Transportation Capital Facilities Account, the Police Capital Facilities Account, the Fire/EMS Capital Facilities Account, and the Capital Improvement Plan Account, established as part of the Development Impact Fee Trust Fund established in Section 15.16.070.03 of this Ordinance.

“Appropriate” shall mean to legally obligate by contract or otherwise commit to use by appropriation or other official act of a governmental entity.

“Building Permit” shall mean the permit required for foundations, new construction and additions pursuant to Hailey Municipal Code § 15.08, as amended.

“Capital Improvements” shall mean improvements with a useful life of ten (10) years or more, by new construction or other action, which increases the service capacity of a Public Facility.

“Capital Improvement Element” shall mean a component of the City of Hailey Comprehensive Plan adopted pursuant to chapters 65 and 82, title 67, Idaho Code and as amended, which component meets the requirements of the Capital Improvements Plan.

“Capital Improvements Plan” shall mean a plan adopted pursuant to the Development Impact Fee Act, Idaho Code §§ 67-8201 *et seq.*, that identifies Capital Improvements for which Development Impact Fees may be used as a funding source.

“City” shall mean the City of Hailey, Idaho.

“City Council” shall mean the City Council of the City of Hailey, Idaho.

“Developer” shall mean any person or legal entity undertaking development including a party that undertakes the subdivision of property pursuant to Idaho Code §§ 50-1301 through 50-1334, as amended.

“Development” or “development” shall mean any construction or installation of a building or structure, or any change in use of a building or structure, or any change in the use, character or appearance of land, which creates additional demand and need for public facilities or the subdivision of property that would permit any change in the use, character or appearance of land.

“Development Approval” shall mean any written duly authorized document from the City which authorizes the commencement of a development.

“Development Impact Fee” shall mean a payment of money imposed as condition of development approval to pay for a proportionate share of the costs of System Improvements needed to serve development. In the context of this Ordinance, Development Impact Fee shall mean one of the four impact fees defined for the four City Capital Facilities Elements, and Development Impact Fees (in the plural) shall mean all five impact fees (or all of them that apply to the proposed development pursuant to Exhibit A of this Ordinance.) The term does not include the following:

1. A charge or fee to pay the administrative plan review, or inspection cost associated with permits required for development;
2. Connection or hookup charges;

3. Availability charges for drainage, sewer, water or transportation charges for services provided directly to the development; or

4. Amounts collected from a developer in a transaction in which the City has incurred expenses in constructing Capital Improvements for the development if the owner or developer has agreed to be financially responsible for the construction or installation of the Capital Improvements, unless a written agreement is made pursuant to Idaho Code § 67-8209(3), as amended, for credit or reimbursement.

“Development Impact Fee Administrator” shall mean the City Clerk/Treasurer of the City of Hailey, Idaho, or his or her designee.

“Development Impact Fee Study” shall mean the document entitled Hailey Growth Related Capital Improvements Plan & Development Impact Fees,” dated March 23, 2007, prepared by TischlerBise for the City, that sets forth reasonable methodologies and analyses for determining the impacts of various types of development on the City Capital Facilities and determines the cost of expansions to those facilities necessary to meet the demands created by new development.

“Development Impact Fee Trust Fund” or “Trust Fund” shall mean the trust fund established by Section 3-7-7 of this Ordinance that includes a (1) Parks Capital Facilities Account, (2) Transportation Capital Facilities Account, (3) Police Capital Facilities Account, (4) Fire/EMS Capital Facilities Account and (5) Capital Improvement Plan Account.

“Development Requirement” shall mean a requirement attached to a developmental approval or other governmental action approving or authorizing a particular development project including, but not limited to a rezoning, which requirement compels the payment, dedication or contribution of goods, services, land or money as condition of approval.

“Extraordinary Costs” shall mean those costs incurred as result of an Extraordinary Impact.

“Extraordinary Impact” shall mean an impact which is reasonably determined by the City to (i) result in the need for System Improvements, the cost of which will significantly exceed the sum of the Development Impact Fees to be generated from the project or the sum agreed to be paid pursuant to a development agreement as allowed by Idaho Code § 67-8214(2), as amended, or (ii) result in the need for System Improvements which are not identified in the Capital Improvements Plan.

“Fee Payer” shall mean the person who pays or is required to pay a Development Impact Fee. A Fee Payer may include a Developer.

“Fire/EMS Capital Facilities” shall mean lands, as well as buildings, improvements to land, and related equipment and vehicles meeting the definition of

Capital Improvement, used for fire and emergency medical service facilities included in the calculation of the Fire/EMS Impact Fee in the Development Impact Fee Study, and specifically including those related costs included in the definition of System Improvement Cost, but not including maintenance, operations or improvements that do not expand capacity.

“Land Use Assumptions” shall mean a description of the service area and projections of land uses, densities, intensities and population in the service area over at least a twenty (20) year period.

“Level of Service” shall mean a measure of the relationship between service capacity and service demand for Public Facilities.

“Manufactured/Mobile Home” shall mean a structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one or more sections, which, in the traveling mode, is eight feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained in such structure, except that such term shall include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established under 42 U.S.C. §§ 5401, *et seq.*

“Modular Building” shall mean any building or building component other than a Manufactured/Mobile Home, which is constructed according to the International Building Code, as adopted or any amendments thereto, which is of closed construction and is either entirely or substantially prefabricated or assembled at a place other than the building site.

“Park Capital Facilities” shall mean open space lands, as well as buildings, improvements to land, and related equipment meeting the definition Capital Improvement, used for public parks, recreation, open space, and trail facilities included in the calculation of the Park Impact Fee in the Development Impact Fee Study, and specifically including those related costs included in the definition of System Improvement Costs, but not including maintenance, operations, or improvements that do not expand capacity.

“Police Capital Facilities” means lands, as well as buildings, improvements to land, and related equipment and vehicles meeting the definition of Capital Improvement, used for police facilities included in the calculation of the Police Impact Fee in the Development Impact Fee Study, and specifically including those related costs included in the definition of System Improvement Costs, but not including maintenance, operations, or improvements that do not expand capacity.

“Present Value” shall mean the total current monetary value of past, present or future payments, contributions or dedications of goods, services, materials, construction or money.

“Project” shall mean a particular development on an identified parcel of land.

“Project Improvements,” in contrast to System Improvements, shall mean site improvements and facilities that are planned and designed to provide service for a particular development project and that are necessary for the use and convenience of the occupants or users of the project.

“Proportionate Share” shall mean that portion of the cost of System Improvements determined pursuant to Section 67-8207, Idaho Code, which reasonably relates to the service demands and needs of the project.

“Public Facilities” shall mean:

1. Water supply production, treatment, storage and distribution facilities;
2. Wastewater collection, treatment and disposal facilities;
3. Roads, streets, bridges, sidewalks and bike paths, including rights-of-way, traffic signals, landscaping and any local components of state or federal highways;
4. Stormwater collection, retention, detention, treatment and disposal facilities, flood control facilities, and bank and shore protection and enhancement improvements;
5. Parks, open space and recreation areas, and related Capital Improvements; and
6. Public safety facilities, including law enforcement, fire, emergency medical and rescue and street lighting facilities.

“Recreational Vehicle” shall mean a vehicular type unit primarily designed as temporary quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

“Service Area” shall mean any defined geographic area identified by the City in which specific Public Facilities provide service to development within the areas defined, on the basis of sound planning or engineering principles or both.

“Service Unit” shall mean a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of Capital Improvements.

“System Improvements,” in contrast to project improvements, shall mean Capital Improvements to Public Facilities which are designed to provide service to a Service Area including, without limitation, the type of improvements described in Idaho Code § 50-1703, as amended. For the purposed of this Ordinance, the System Improvements are the Park Capital Facilities, Transportation Capital Facilities, Police Capital Facilities, and Fire/EMS Capital Facilities.

“System Improvements Costs” shall mean costs incurred for construction or reconstruction of System Improvements, including design, acquisition, engineering and other costs, and also including, without limitation, the type of costs described in Idaho Code § 50-1702(h), as amended, to provide additional Public Facilities needed to service new growth and development. For clarification, System Improvement Costs do not include:

1. Construction, acquisition or expansion of Public Facilities other than Capital Improvements identified in the Capital Improvements Plan;
2. Repair, operation or maintenance of existing or new Capital Improvements;
3. Upgrading, updating, expanding or replacing existing Capital Improvements to serve existing development in order to meet stricter safety, efficiency, environmental or regulatory standards;
4. Upgrading, updating, expanding or replacing existing Capital Improvements to provide better service to existing development;
5. Administrative and operating costs of the City unless such costs are attributable to development of the Capital Improvements Plan, as provided in Idaho Code § 67-8208, as amended;
6. Principal payments and interest or other finance charges on bonds or other indebtedness except financial obligations issued by or on behalf of the City to finance Capital Improvements identified in the Capital Improvements Plan.

“Transportation Facilities” shall mean lands, improvements to land, and equipment meeting the definition of Capital Improvement, used for the system of traffic signals and for the widening of bridges on arterial and collector roads, included in the calculation of the Road Impact Fee in the Development Impact Fee Study, and consistent with the Capital Improvements Element, and specifically including those related costs

included in the definition of System Improvement Costs, but not including maintenance, operations, or improvements that do not expand capacity.

15.16.030 Authority, Applicability and Exemptions.

15.16.030.01 Authority. This Ordinance is enacted pursuant to the City's general police power granted to the City by Chapter 82, Title 67, Idaho Code, and other applicable laws of the State of Idaho.

15.16.030.02 Applicability. Except as otherwise exempted, the provisions of this Ordinance shall apply to any development within all areas of the City.

15.16.030.03 Exemptions. The provisions of this Chapter 15.12 shall not apply to the following:

A. Rebuilding the same amount of floor space of a structure which is destroyed by fire or other catastrophe, provided the structure is rebuilt and ready for occupancy within two (2) years of its destruction;

B. Remodeling or repairing a structure which does not increase the number of Service Units;

C. Replacing a residential unit, including a Manufactured/Mobile Home, with another residential unit on the same lot; provided that, the number of Service Units does not increase;

D. Placing a temporary construction trailer or office on a lot;

E. Constructing an addition on a residential structure which does not increase the number of Service Units;

F. Adding uses that are typically accessory to residential uses, such as tennis court or a clubhouse, unless it can be clearly demonstrated that the use creates a significant impact on the capacity of System Improvements; or

G. The installation of a Modular Building, Manufactured/Mobile Home or Recreational Vehicle if the Fee Payer can demonstrate by documentation such as utility bills and tax records that either (a) a Modular Building, Manufactured/Mobile Home or Recreational Vehicle was legally in place on the lot or space prior to the effective date of this Ordinance or (b) a Development Impact Fee has been paid previously for the Modular Building, Manufactured/Mobile Home or Recreational Vehicle on that same lot or space.

15.16.040 Calculation of Development Impact Fees.

15.16.040.01 General Provisions.

A. Accounting Principles. The calculation of a Development Impact Fee shall be in accordance with generally accepted accounting principles. A Development Impact Fee shall not be deemed invalid because payment of the fee may result in an incidental benefit to owners or developers within the Service Area other than the person paying the fee.

B. Levels of Service. A Development Impact Fee shall be calculated on the basis of Levels of Service for Public Facilities adopted in this Ordinance that are applicable to existing development as well as new growth and development. The construction, improvement, expansion or enlargement of new or existing Public Facilities for which a Development Impact Fee is imposed must be attributable to the capacity demands generated by the new development.

15.16.040.02 Methodology.

A. Proportionate Methodology. A Development Impact Fee shall not exceed a proportionate share of the cost of System Improvements determined in accordance with Idaho Code § 67-8207, as amended. Development Impact Fees shall be based on actual System Improvement Costs or reasonable estimates of such costs. The amount of the Development Impact Fee shall be calculated using the methodology contained in the Development Impact Fee Study and as summarized in the schedule attached as Exhibit "A."

B. Proportionate Share Determination.

1. All Development Impact Fees shall be based on a reasonable and fair formula or method under which the Development Impact Fee imposed does not exceed a proportionate share of the costs incurred or to be incurred by the City in the provision of System Improvements to serve the new development. The proportionate share is the costs attributable to the new development after the City considers the following:

- a. Any appropriate credit, offset or contribution of money, dedication of land or construction of System Improvements;
- b. Payments reasonably anticipated to be made by or as a result of a new development in the form of user fees and debt service payments;
- c. That portion of general tax or other revenues allocated by the jurisdiction to System Improvements; and
- d. All other available sources of funding such System Improvements.

2. In determining the proportionate share of the cost of System Improvements to be paid by the Developer, the following factors shall be considered by the City and accounted for in the calculation of the Development Impact Fee:

- a. The costs of existing System Improvements within the Service Area;
- b. The means by which existing System Improvements have been financed;
- c. The extent to which the new development will contribute to the cost of System Improvements through taxation, assessments, or developer or landowner contributions, or has previously contributed to the cost of System Improvements through developer or landowner contributions;
- d. The extent to which the new development is required to contribute to the cost of existing System Improvements in the future;
- e. The extent to which the new development should be credited for providing System Improvements, without charge to other properties within the Service Area;
- f. Extraordinary Costs, if any, incurred in serving the new development;
- g. The time and price differential inherent in a fair comparison of fees paid at different times; and
- h. The availability of other sources of funding System Improvements including, but not limited to, user charges, general tax levies, intergovernmental transfers and special taxation.

C. Nonlisted Uses. If the proposed development is of a type not listed in Exhibit “A,” then the City shall apply the Development Impact Fees applicable to the most nearly comparable type of land use listed in Exhibit “A.” The determination as to which type of development is most nearly comparable to the proposed development shall be made by referring to traffic generation rates for land uses published by Institute of Transportation Engineers, and by identifying that land use listed in Exhibit “A” whose traffic generation rates are most comparable to the proposed land use. If no traffic generation rate for the proposed land use appears in a publication of the Institute of Transportation Engineers, or if it is not possible to determine which land use listed in Exhibit “A” has the most comparable traffic generation rates, then the most nearly comparable land use shall be determined by the Development Impact Fee Administrator based on comparison of other characteristics of the proposed land use shall be determined by the Development Impact Fee Administrator based on comparison of other characteristics of the proposed land use (including employment or occupancy, the size of the facility, and the amount of parking to be provided) with the characteristics of those land uses listed in Exhibit “A.”

D. Mixed Uses. If the development for which a Building Permit is sought contains a mix of uses, the Development Impact Fee will be calculated for each type of development based on the required Service Units.

E. Developer’s Election. A Developer shall have the right to elect to pay a project’s proportionate share of System Improvement costs by payment of development Impact Fees according to the fee schedule attached as Exhibit “A” as full

and complete payment of the development project's proportionate share of System Improvement Costs, except as provided in Idaho Code § 67-8214(3), as amended.

15.16.040.03 Schedules. Development Impact Fees shall be calculated using the schedule attached as Exhibit "A" to this Ordinance, unless (a) the Fee Payer requests an individual assessment pursuant to Section 15.16.040.04(C), or (b) the City finds an Extraordinary Impact for a proposed development in writing to the Fee Payer, in which case Section 15.16.040.04(D) shall apply.

15.16.040.04 Procedures.

A. Building Permit. Upon submittal of complete Building Permit plans, the City shall calculate the Development Impact Fees in accordance with this Ordinance within thirty (30) days of submittal.

B. Exemption. An exemption must be claimed by the Fee Payer upon application for a Building Permit. Any exemption not so claimed shall be deemed waived by the Fee Payer. Applications for exemption shall be submitted to and determined by the City within ninety (90) days.

C. Using an Individual Assessment.

1. In lieu of calculating the amount of Development Impact Fees by reference to Exhibit "A," a Fee Payer may request that the amount of the required Development Impact Fee be determined through an Individual Assessment for the proposed development. The Individual Assessment process shall permit consideration of studies, data, and any other relevant information submitted by the Fee Payer to adjust the amount of the fee. If a Fee Payer requests the use of an Individual Assessment, the Fee Payer shall be responsible for retaining a qualified professional to prepare the Individual Assessment that complies with the requirements of this Ordinance, at the Fee Payer's expense. The Fee Payer shall, at the Fee Payer's expense, bear the burden of proving by clear and convincing evidence that the resulting Individual Assessment complies with the requirements of this Ordinance. The Fee Payer shall bear the burden of proving by clear and convincing evidence that the resulting Individual Assessment is a more accurate measure of its proportionate share of the cost of City Capital Improvements, based on the City's adopted Levels of Service, than the Development Impact Fees that would otherwise be due pursuant to the schedule set forth in Exhibit "A."

2. Each Individual Assessment shall be based on the same Level of Service standards and unit costs for System Improvements used in the Development Impact Fee Study, shall use an average cost (not a marginal cost) methodology, and shall document the relevant methodologies and assumptions used.

3. An application for an Individual Assessment may be submitted at any time that the number of dwelling units in the proposed development and

the types and amounts of development in each non-residential category identified in Exhibit “A” are known. The City shall issue a decision within thirty (30) days following receipt of a completed application for Individual Assessment and supporting information from the applicant, so as not to unreasonably delay subsequent applications for or issuance of Building Permits.

4. Each Individual Assessment shall be submitted to the Development Impact Fee Administrator, and may be accepted, rejected, or accepted with modifications by the Development Impact Fee Administrator as the basis for calculating Development Impact Fees. The criteria for acceptance, rejection or acceptance with modifications shall be whether the Individual Assessment is more accurate measure of demand for the City Capital Improvements Element(s) created by the proposed development, or the costs of those facilities, than the applicable fee shown in Exhibit “A.”

5. The decision by the Development Impact Fee Administrator on an application for an Individual Assessment shall include an explanation of the calculation of the Development Impact Fee, shall specify the system improvement(s) for which the Development Impact Fee is intended to be used, and shall include an explanation of those factors identified in Idaho Code §67-8207.

6. If an Individual Assessment is accepted or accepted with modifications by the Development Impact Fee Administrator then the Development Impact Fees due under this Ordinance for such development shall be calculated according to such Individual Assessment.

D. Extraordinary Impacts.

1. If the City determines that a proposed development generates Extraordinary Impacts that will result in Extraordinary Costs, the City will notify the Fee Payer of such determination within thirty (30) days after receipt for a Certification pursuant to Section 15.16.040.04(E) or a request for a Building Permit of development approval, whichever occurs first. Such notice shall include a statement that the potential impacts of such development on System Improvements are not adequately addressed by Development Impact Fee Study, and that a supplemental study at the Fee Payer’s expense will be required.

2. Circumstances that may lead to a determination of Extraordinary Impacts include, but are not limited to: (a) an indication that traffic generation from the proposed development or activity will exceed those typical for a facility or activity of its type, (b) an indication that employment generated by the development or activity will exceed those typical for a facility or activity of its type, (c) an indication the assumptions used in the Development Impact Fee Study underestimate the level of activity or impact on City Capital Facilities from the proposed development or activity, or (d) an indication that levels of calls for law enforcement, fire or emergency

services from developments or activities owned or operated by the Fee Payer or its agents will exceed assumptions used in the Development Impact Fee Study.

3. Within thirty (30) days following the designation of a development with Extraordinary Impacts, the City shall meet with the Fee Payer to discuss whether the Fee Payer wants to (a) pay for the supplemental study necessary to determine the System Improvement Costs related to the proposed development, or (b) modify the proposal to avoid generating Extraordinary Impacts, or (c) withdraw the application for Certification, Building Permit or development approval.

4. If the Fee Payer agrees to pay for the supplemental study required to document the proposed development's proportionate share of System Improvement Costs, then the City and the Fee Payer shall jointly select an individual or organization acceptable to both to perform such study. The Fee Payer shall enter into a written agreement with such individual or organization to pay the costs of such study. Such agreement shall require the supplemental study to be completed within thirty (30) days of such written agreement, unless the Fee Payer agrees to a longer time.

5. Once the study has been completed, the Fee Payer may choose to (a) pay the proportionate share of System Improvement Costs documented by the supplemental study, or (b) modify the proposed development to reduce such costs, or (c) withdraw the application. If the Fee Payer agrees to pay the System Improvement Costs documented in the supplemental study, that agreement shall be reduced to writing between the City and the Fee Payer prior to review and consideration of any application for any Development Approval or Building Permit related to the proposed development.

6. Notwithstanding any agreement by the Fee Payer to pay the proportionate share of System Improvement Costs documented by the supplemental study, nothing in this Ordinance shall obligate the City to approve development that results in an Extraordinary Impact.

E. Certification. After the Development Impact Fees due for a proposed development have been calculated pursuant to Exhibit "A" or the Individual Assessment, the Fee Payer may request the Development Impact Fee Administrator or a designee for a certification of the amount of Development Impact Fees due for that development. Within thirty (30) days after receiving such request, the Development Impact Fee Administrator shall issue a written certification of the amount of Development Impact Fees due for the proposed development. Such certification shall establish the Development Impact Fee so long as there is no material change to the particular project as identified in the Individual Assessment Application, or the impact fee schedule set forth in Exhibit "A." The certification shall include an explanation of the calculation of the impact fee including an explanation of factors considered under Idaho Code § 67-8207 and shall also specify the system improvement(s) for which the Development Impact Fee is intended to be used.

15.16.050 Credits and Reimbursement.

15.16.050.01 Credits to be Issued. When a Developer or his or her predecessor in title or interest has constructed System Improvements of the same category as a City Capital Improvement, or contributed or dedicated land or money towards the completion of System Improvements of the same category as a City Capital Improvement, and the City has accepted such construction, contribution or dedication, the City shall issue a credit against the Development Impact Fees otherwise due for the same City Capital Improvements in connection with the proposed development, as set forth in this Section 15.16.050. Credit shall be issued regardless of whether the contribution or dedication to System Improvements was required by the City as a condition of development approval or was offered by the Developer and accepted by the City in writing, and regardless of whether the contribution or dedication was contributed by the Developer or by a Local Improvement District controlled by the Developer.

15.16.050.02 Limitations. Credits against Development Impact Fees shall not be given for (a) Project Improvements, or (b) any construction, contribution or dedication not agreed to in writing by the City prior to commencement of the construction, contribution, or dedication. Credits issued for one City Capital Improvement may not be used to reduce Development Impact Fees due for a different Capital Improvement. No credits shall be issued for System Improvements contributed or dedicated prior to the effective date of this Ordinance.

15.16.050.03 Valuation of Credit at Present Value.

A. Land. Credit for qualifying land dedications shall, at the Fee Payer's option, be valued at the present value of (a) one hundred percent (100%) of the most recent assessed value for such land as shown in the records of the County Assessor, or (b) that fair market value established by a private appraiser acceptable to the City in an appraisal paid for by the Fee Payer.

B. Improvements. Credit for qualifying acquisition or construction of System Improvements shall be valued by the City at the present value of such improvements based on complete engineering drawings, specifications, and construction cost estimates submitted by the Fee Payer to the City. The City shall determine the amount of credit due based on the information submitted, or, if it determines that such information is inaccurate or unreliable, then on alternative engineering or construction costs acceptable to the City as a more accurate measure of the value of the offered System Improvements to the City.

15.16.050.04 When Credits Become Effective.

A. Land. Approved credits for land dedications shall become effective when the land has been conveyed to the City in a form acceptable to the City, at no cost to the City, and has been accepted by the City. Upon request of the Fee Payer, the City shall issue a letter stating the amount of credit available.

B. Improvements. Approved credits for acquisition or construction of System Improvements shall generally become effective when (a) all required construction has been completed and has been accepted by the City, (b) a suitable maintenance and warranty bond has been received and approved by the City, and (c) all design, construction, inspection, testing, bonding, and acceptance procedures have been completed in compliance with all applicable requirements of the City and the State of Idaho. Upon request of the Fee Payer, the City shall issue a letter stating the amount of credit available.

15.16.050.05 Application Procedures.

A. Request. In order to obtain a credit against Development Impact Fees otherwise due, a Fee Payer shall submit a written offer to dedicate to the Development Impact Fee Administrator for specific parcels of qualifying land or a written offer to contribute or construct specific System Improvements to the City Capital Facilities in accordance with all applicable State or City design and construction standards, and shall specifically request a credit against the type of Development Impact Fees for which the land dedication or System Improvement is offered. No request for a credit against Development Impact Fees shall be accepted unless a written offer to dedicate, contribute or construct has previously been approved in writing.

B. Review. After receipt of the request for credit, the Development Impact Fee Administrator shall review the request and determine whether the land or System Improvements offered for credit will reduce the costs of providing City Capital Facilities by an amount at least equal to the value of the credit. If the Development Impact Fee Administrator determines that the offered credit satisfies that criteria, then the credit shall be issued. The City shall complete its review and determination of an application within thirty (30) days after receipt of an application for credit.

15.16.050.06 Credits Exceeding Fee Amounts Due. If the credit due to a Fee Payer pursuant to Sections 15.16.050.01 through 15.16.050.05, above, exceeds the Development Impact Fee that would otherwise be due from the Fee Payer pursuant to the Ordinance (whether calculated through Exhibit “A” or through an Independent Assessment), the Fee Payer may choose to receive such credit in the form of either (a) a credit against future Development Impact Fees due for the same Capital Improvements, or (b) a reimbursement from Development Impact Fees paid by future development that impacts the System Improvements contributed or dedicated by the Fee Payer. Unless otherwise stated in an agreement with the Fee Payer, the City shall be under no obligation to use any City funds – other than Development Impact Fees paid by other development for the same City Capital Improvements – to reimburse the Fee Payer for any credit in excess of Development Impact Fees due.

15.16.050.07 Written Agreement Required. If credit or reimbursement is due to the Fee Payer pursuant to this Section 15.16.050, the City shall enter into a written agreement with the Fee Payer, negotiated in good faith, prior to the contribution,

dedication, or funding of the System Improvements giving rise to the credit. The agreement shall provide for the amount of credit or the amount, time and form of reimbursement, and shall have a term not exceeding ten (10) years.

15.16.060 Refunds.

15.16.060.01 Duty to Refund.

A. Development Impact Fees shall be refunded to the Fee Payer, or to a successor in interest, in the following circumstances:

1. Service is available but never provided;
2. A Building Permit, or permit for installation of a manufactured home, is denied or abandoned;
3. The Fee Payer pays a Development Impact Fee under protest and a subsequent review of the fee paid or the completion of an Individual Assessment determines that the fee paid exceeded the proportionate share to which the City was entitled to receive; or
4. The City has collected a Development Impact Fee and has failed to appropriate or expend the collected fees pursuant to Section 15.16.060.02 below.

15.16.060.02 Failure to Commence Construction or Encumber Trust Funds.

Any Development Impact Fees paid shall be refunded if the City has failed to commence construction of System Improvements in accordance with this Ordinance, or to appropriate funds for such construction, within five (5) years after the date on which such fee was paid. Any refund due shall be paid to the owner of record of the parcel for which the Development Impact Fees were paid. The City may hold Development Impact Fees for longer than five (5) years if it identifies in writing: (a) a reasonable cause why the fees should be held longer than five (5) years; and (b) an anticipated date by which the fees will be expended, but in no event greater than eight (8) years from the date they were collected. If the City complies with the previous sentence, then any Development Impact Fees identified in such writing shall be refunded to the Fee Payer if the City has failed to commence construction of System Improvements in accordance with this Ordinance, or to appropriate funds for such construction on or before the date identified in such writing.

15.16.060.03 No Refund Due for Subsequent Reduction in Size of Development or Service Units. After a Development Impact Fee has been paid pursuant to this Ordinance and after a certificate of occupancy has been issued, no refund of any part of such fee shall be made if the project for which the fee was paid is later demolished, destroyed, or is altered, reconstructed, or reconfigured so as to reduce the size of the project or the number of units in the project.

15.16.060.04 Interest. Each refund shall include a refund of interest at one-half (1/2) the legal rate provided for in Idaho Code §28-22-104 from the date on which the Fee was originally paid.

15.16.060.05 Timing. The City shall make a determination of whether a refund is due within thirty (30) days after receipt of a written request for a refund from the owner of record of the property for which the fee was paid. When the right to a refund exists, the City shall send the refund to the owner of record within ninety (90) days after the City determines that a refund is due.

15.16.070 Collection and Administration of Impact Fees.

15.16.070.01 Payment of Fees. Development Impact Fees shall be paid to the City at the following times:

A. If a Building Permit or Manufactured/Mobile Home installation permit is required, then at the time such permit is issued;

B. If no Building Permit or Manufactured/Mobile Home installation permit is required, then at the time that construction commences; or

C. At such other time as the Developer and the City have agreed upon in writing.

15.16.070.02 Deposit of Development Impact Fees. All monies paid by a Fee Payer pursuant to this Ordinance shall be identified as Development Impact Fees and shall be promptly deposited in the appropriate Account.

15.16.070.03 Establishment of Trust Fund and Accounts. A Development Impact Fee Trust Fund (the "Trust Fund") is hereby established for the purpose of ensuring that the Development Impact Fees collected pursuant to this Ordinance are used to address impacts reasonably attributable to new development for which the Development Impact Fees are paid. The Trust Fund shall be divided into the Accounts. The Trust Fund shall be maintained in an interest bearing account. The interest earned on each Account shall not be governed by Idaho Code § 57-127, as amended, but shall be considered funds of the Account and shall be subject to the same restrictions on uses of funds as the Development Impact Fees on which the interest is generated.

15.16.070.04 First-In/First-Out. Monies in each Account shall be spent in the order collected, on a first-in/first-out basis.

15.16.070.05 Deposit and Management of the Trust Fund.

A. Deposit. All Development Impact Fees collected by the City shall be promptly deposited into the appropriate Account.

B. Maintenance of Records. The City shall maintain and keep accurate financial records for each Account that shall show the source and disbursement of all revenues, that shall account for all monies received, that shall ensure that the disbursement of funds from each Account shall be used solely and exclusively for the provisions of projects specified in the Capital Improvements Plan, and that shall provide an annual accounting for each Development Impact Fee Account showing the source and amount of all funds collected and the projects that were funded.

15.16.080 Use of Development Impact Fees.

15.16.080.01 Park Capital Facilities. The monies collected from the Park Development Impact Fees shall be used only to plan for and acquire or construct Park Capital Facilities, or to pay debt service on any portion of any future general obligation or revenue bond issue or similar instrument used to finance the acquisition or construction of Park Capital Facilities within the City, or to reimburse the City for such costs.

15.16.080.02 Transportation Capital Facilities. The monies collected from the Transportation Development Impact Fees shall be used only to plan for and acquire or construct Transportation Capital Facilities, or to pay debt service on any portion of any future general obligation or revenue bond issue or similar instrument used to finance the acquisition or construction of Transportation Capital Facilities within the City, or to reimburse the City for such costs.

15.16.080.03 Police Capital Facilities. The monies collected from the Police Development Impact Fees shall be used only to plan for and acquire or construct Police Capital Facilities, or to pay debt service on any portion of any future general obligation or revenue bond issue or similar instrument used to finance the acquisition or construction of Police Capital Facilities within the City, or to reimburse the City for such costs.

15.16.080.04 Fire/EMS Capital Facilities. The monies collected from the Fire/EMS Development Impact Fees shall be used only to plan for and acquire or construct Fire/EMS Capital Facilities, or to pay debt service on any portion of any future general obligation or revenue bond issue or similar instrument used to finance the acquisition or construction of Fire/EMS Capital Facilities within the City, or to reimburse the City for such costs.

15.16.080.05 Capital Improvement Plan Reimbursement. The monies collected from the Capital Improvement Plan Development Impact Fees shall be used only to reimburse the City for the preparation of the Development Impact Fee Study.

15.16.080.06 Limitation on Use. Development Impact Fees shall not be used for any purpose other than System Improvement Costs to create additional improvements to serve new growth, or for reimbursement of the cost of the Development Impact Fee Study. The expenditure of Development Impact Fees is prohibited except in accordance with the requirements of Idaho Code § 67-8210, as amended.

15.16.090 Appeals, Protest and Mediation.

15.16.090.01 Appeals.

A. Any Fee Payer that is or may be obligated to pay a Development Impact Fee, or that claims a right to receive a refund, reimbursement, exemption or credit under this Ordinance, and who is dissatisfied with a decision made by Development Impact Fee Administrator in applying this Ordinance, may appeal such decision to the City Council. The Fee Payer shall have the burden of proving by clear and convincing evidence that the decision was in error.

B. In order to pursue the appeal described in subsection 15.16.090.01(A), the Fee Payer shall file a written notice of the appeal with the Development Impact Fee Administrator within thirty (30) days after the date of the decision, or the date on which the Fee Payer submitted a payment of Development Impact Fees under protest, whichever is later. Such written application shall include a statement describing why the Fee Payer believes that the decision was in error, together with copies of any documents that the Fee Payer believes support the claim.

C. The City Council shall hear the appeal within sixty (60) days after receipt of a written notice of appeal. The Fee Payer shall have a right to be present and to present evidence in support of the appeal. The Development Impact Fee Administrator who made the decision under appeal or his or her representative shall likewise have the right to be present and to present evidence in support of the decision. The criteria to be used by the City Council in considering the appeal shall be whether (a) the decision or interpretation made by the Development Impact Fee Administrator, or (b) the alternative decision or interpretation offered by the Fee Payer, more accurately reflects the intent of this Ordinance that new development in the City pay its proportionate share of the costs of System Improvements to City Capital Facilities necessary to serve new development and whether the Ordinance has been correctly applied. The City Council shall issue a decision upholding, reversing, or modifying the decision being appealed within thirty (30) days after hearing the appeal.

15.16.090.02 Payment under Protest. A Fee Payer may pay a Development Impact Fee under protest in order not to delay in the issuance of a Building Permit. A Fee Payer making a payment under protest shall not be estopped from exercising the right to appeal provided herein, nor shall such Fee Payer be estopped from receiving a refund of any amount deemed to have been illegally collected.

15.16.090.03 Mediation.

A. Any Fee Payer that has a disagreement with the City regarding a Development Impact Fee that is or may be due for a proposed development pursuant to this Ordinance, may enter into a voluntary agreement with the City to subject the disagreement to mediation by a qualified independent party acceptable to both the Fee Payer and the City.

B. Mediation may take place at any time following the filing of a timely appeal pursuant to Section 15.16.090.01, or as an alternative to such appeal, provided that the request for mediation is filed no later than the last date on which a timely appeal could be filed pursuant to Section 15.16.090.01.

C. Participation in mediation does not preclude the Fee Payer from pursuing other remedies provided for in this Section 15.16.090.

D. If mediation is requested, any related mediation costs shall be shared equally by the Fee Payer and the City, and a written agreement regarding the payment of such costs shall be executed prior to the commencement of mediation.

E. In the event that mediation does not resolve the issues between the parties, the Fee Payer retains all rights to seek relief from a court of competent jurisdiction.

15.16.100 Periodic Reviews.

15.16.100.01 Review and Modification of Capital Improvement Plan. Unless the City Council deems some other period is appropriate, the City shall at least once every five (5) years commencing from the date of the original adoption of the Capital Improvements Plan, review the development potential and update the Capital Improvements Plan in accordance with the procedures set forth in Idaho Code §67-8206, as amended.

15.16.100.02 Annual Review. The City shall annually adopt a capital budget.

15.16.100.03 Audit. As part of its annual audit process, the City shall prepare an annual report (a) describing the amount of all Development Impact Fees collected, appropriated or spent during the preceding year by category of Public Facility and (b) describing the percentage of taxes and revenues from sources other than Development Impact Fees collected, appropriated or spent for System Improvement during the preceding year by category of Public Facility.

15.16.100.04 Development Impact Fee Advisory Committee. The City Council shall consider the Development Impact Fee Advisory Committee recommended revision(s) to this Ordinance at least once every twelve (12) months. The Committee's recommendations and the City Council's actions are intended to ensure that the benefits to a development paying Development Impact Fees are equitable, in that the fee charged to the development shall not exceed a proportionate share of System Improvements Costs, and that the procedures for administering Development Impact Fees remain efficient.

15.16.110 Enforcement and Collection.

When any Development Impact Fee is due pursuant to this Ordinance, or pursuant to the terms of any written agreement between a Fee Payer and the City, and such Development Impact Fee has not been paid in a timely manner, the City may exercise any or all of the following powers, in any combination, to enforce the collection of the Development Impact Fee:

- A. Withhold Building Permits or other City approvals related to the development for which the Development Impact Fee is due until all Development Impact Fees due have been paid, and issue stop work orders, and revoke or suspend a Building Permit.
- B. Withhold utility services from the development for which the Development Impact Fee is due until all Development Impact Fees due have been paid.
- C. Add interest to the Development Impact Fee not paid in full at the legal rate provided for in Idaho Code § 28-22-104, as amended, plus five percent (5%) beginning on the date at which the payment of the Development Impact Fee was due until paid in full.
- D. Impose a penalty of five percent (5%) of the total Development Impact Fee (not merely the portion dishonored, late or not paid in full) per month beginning on the date at which the payment of the Development Impact Fee was due until paid in full
- E. Impose a lien for failure to timely pay a Development Impact Fee following the procedures contained in Chapter 5, Title 45, Idaho Code.

15.16.120 Miscellaneous Provisions.

15.16.120.01 Nothing in this Ordinance shall prevent the City from requiring a Developer to construct reasonable project improvements in conjunction with a development project.

15.16.120.02 Nothing in this Ordinance shall be construed to prevent or prohibit private agreements between property owners or Developers, the Idaho transportation department and governmental entities in regard to the construction or installation of System Improvements or providing for credits or reimbursements for System Improvement Costs incurred by a Developer including interproject transfers of credits or providing for reimbursement for project improvements which are used or shared by more than one (1) development project. If it can be shown that a proposed development has a direct impact on a Public Facility under the jurisdiction of the Idaho transportation department, then the agreement shall include a provision for the allocation of Development Impact Fees collected from the Developer for the improvement of the Public Facility by the Idaho transportation department.

15.16.120.03 Nothing in this Ordinance shall obligate the City to approve development which results in an Extraordinary Impact.

15.16.120.04 Nothing in this Ordinance shall obligate the City to approve any Development Request which may reasonably be expected to reduce Levels of Service below minimum acceptable levels established in this Ordinance.

15.16.120.05 Nothing in this Ordinance shall be construed to create any additional right to develop real property or diminish the City in regulating the orderly development of real property within its boundaries.

15.16.120.06 Nothing in this Ordinance shall work to limit the use by the City of the power of eminent domain or supersede or conflict with requirements or procedures authorized in the Idaho Code for local improvement districts or general obligation bond issues.

15.16.120.07 Nothing herein shall restrict or diminish the power of the City to annex property into its territorial boundaries or exclude property from its territorial boundaries upon request of a Developer or owner, or to impose reasonable conditions thereon, including the recovery of project or System Improvement Costs required as a result of such voluntary annexation.

15.16.120.08 The City shall develop a plan for alternative sources of revenue, which shall include but not necessarily be limited to plans generated during the City's annual budget process, lobbying efforts, tax increment financing, implementation of user fees, administrative and regulatory fees and other forms of revenue.

15.16.120.09 Notwithstanding any other provision of this Ordinance, that portion of a project for which a complete application for a Building Permit has been received by the City prior to the effective date of this Ordinance shall not be subject to the Development Impact Fees imposed by this Ordinance. If the resulting Building Permit is later revised or replaced after the effective date of this ordinance, and the new Building Permit(s) reflects a development density, intensity, development size or number of units more than ten percent (10%) higher than that reflected in the original Building Permit, then Development Impact Fees may be charged on the difference in density, intensity, development size or number of units between the original and the revised or replacement Building Permit.

15.16.120.10 Any monies, including any accrued interest not assigned to specific System Improvements within such Capital Improvements program and not expended pursuant to Section 15.16.080 or refunded pursuant to Section 15.16.060 shall be retained in the same Account until the next fiscal year.

15.16.120.11 If the City discovers an error in the Development Impact Fee Study that results in assessment or payment of more than a proportionate share of System Improvement Costs on any proposed development, the City shall (a) adjust the

Development Impact Fee to collect no more than a proportionate share or (b) discontinue the collection of any Development Impact Fees until the error is corrected by ordinance.

15.16.120.12 If Development Impact Fees are calculated and paid based on a mistake or misrepresentation, they shall be recalculated. Any amounts over paid by a Fee Payer shall be refunded by the City within thirty (30) days after the City's acceptance of the recalculated amount, with interest at the legal rate provided for in Idaho Code §28-22-104 from the date on which the Fee was paid. Any amounts underpaid by the Fee Payer shall be paid to the City within thirty (30) days after the City's acceptance of the recalculated amount, with interest at the legal rate provided for in Idaho Code §28-22-104 from the date on which the Fee was paid. In the case of an underpayment to the City, the City may withhold issuance of the Building Permits or development approvals for the project for which the Development Impact Fee was paid until such underpayment is corrected, and if amounts owed to the City are not paid within such thirty (30) day period, the City may also revoke any Building Permits or development approvals issued in reliance on the previous payment of such Development Impact Fee and refund such Fee to the Fee Payer.

15.16.120.13 The Development Impact Fee Advisory Committee established during the preparation of the Development Impact Fee Study shall continue in existence, and shall be composed of not fewer than five (5) members appointed by City Council. Two (2) or more members shall be active in the business of development, building, or real estate. The Committee shall serve in an advisory capacity and has been established to (a) assist the City in adopting Land Use Assumptions; (b) review the Capital Improvements Plan, and proposed amendments, and file written comments; (c) monitor and evaluate implementation of the Capital Improvements Plan; (d) file periodic reports, at least annually, with respect to the Capital Improvements Plan and report to the City any perceived inequities in implementing the plan or imposing the Development Impact Fees; and (e) advise the City of the need to update or revise the Land Use Assumptions, the Capital Improvements Plan, and Development Impact Fees.

15.16.120.14 Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor, punishable by up to one year in the county jail, and/or three hundred dollars (\$300.00) fine, or both. Knowingly furnishing false information to any official of the City charged with the administration of this Ordinance, including without limitation the furnishing of false information regarding the expected size, use or impacts from a proposed development, shall be a violation of this Ordinance.

15.16.120.15 All provisions, terms, phrases and expressions contained in this Ordinance shall be liberally construed in to order that the true intent and meaning of the Idaho Development Impact Fee Act and the City Council may be fully carried out.

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

Section 4. 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 May, 2007.

Susan McBryant, Mayor

ATTEST:
City of Hailey

Heather Dawson, City Clerk

Publish: Wood River Journal
_____, 2007