

HAILEY ORDINANCE NO. 1121

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 13.04.150(C) TO DELETE THE AUTHORITY OF THE CITY OF HAILEY TO IMPOSE A LIEN FOR DELINQUENT WATER AND WASTEWATER USER FEES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, Section 13.04.150(C) of the Hailey Municipal Code provides that delinquent water and wastewater user fees shall be imposed as a lien on the property upon which the fee was levied or assessed;

WHEREAS, based on *City of Grangeville v. Haskin*, 116 Idaho 535 (1989), the Hailey City Attorney has recommended that the city delete any language in Chapter 13 of the Hailey Municipal Code which purports to authorize a lien for delinquent water and wastewater user fees; and

WHEREAS, the Hailey City Council concurs with the recommendation and thereby amends Section 13.04.150(C) of the Hailey Municipal Code to delete the authority to impose a lien for delinquent water and wastewater user fees on property upon which the fee was levied or assessed.

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

Section 1. Section 13.04.150(C) of the Hailey Municipal Code is amended by the deletion of the stricken language, as follows:

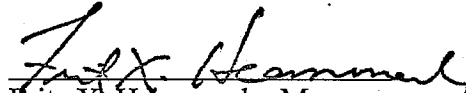
Section 13.04.150(C). Water and Wastewater User Fees—Delinquency and Notice. All Water and Wastewater User fees shall be due and payable to the City Clerk on or before the bill closing date of each month's bill, and upon failure to pay within the time as prescribed, each user shall pay, in addition to the amount due, the sum of two dollars (\$2.00) and interest at the rate of twelve percent (12%) per annum. ~~All delinquent fees, as provided in this chapter, not paid within fifteen (15) days of the date when notice of delinquency is sent, shall be imposed as a lien against and upon the Property against which such fee is levied or assessed.~~

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 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 11th day of March, 2013.


Fritz X. Haemmerle, Mayor

ATTEST:


Mary Cone, City Clerk

Publish: Idaho Mountain Express April 3, 2013

