

HAILEY ORDINANCE NO. 889

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, ADOPTING A NEW TITLE 14 AND NEW CHAPTER 14.01 OF THE HAILEY MUNICIPAL CODE ENTITLED ANNEXATION PROCEDURES PROVIDING FOR AN APPLICATION AND REVIEW PROCESS FOR ANNEXATIONS; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, Idaho law recognizes that annexation of real property into a municipality is a discretionary act and is not subject to the Local Land Use Planning Act, Idaho Code §§ 67-6501 *et seq.*;

WHEREAS, notwithstanding the discretionary nature of annexation request, the Mayor and the City Council of the City of Hailey desire to establish procedures for annexation applications and reviews of annexation applications;

WHEREAS, the Mayor and the City Council find that the establishment of annexation procedures will promote uniformity and certainty in annexation applications;

WHEREAS, the Mayor and the City Council find that the establishment of annexation procedures as established by this ordinance is consistent with the procedures established in Idaho Code § 50-222; and

WHEREAS, the Mayor and the City Council find that the establishment of annexation procedures 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.     ADOPTION.** Hailey Municipal Code is amended by the addition a new Title 14, Chapter 14.01, entitled “Annexation Procedures,” with the addition of the following language:

**14.01.010     PURPOSE.** The City of Hailey finds that that the establishment of annexation procedures will promote uniformity and certainty in annexation applications and that the establishment of annexation procedures will promote the public health, safety and general welfare. Unless there are compelling reasons, the applicant shall submit plans and applicable studies for all components of the proposed annexation.

**14.01.020     APPLICABILITY.** Any request for an annexation shall be controlled by the provisions of this Chapter. To the extent the procedures of this Chapter conflict with the procedures of Idaho Code §50-222 and other applicable state statutes, the provisions of state law shall control. If the City initiates an annexation, the provisions of this Chapter shall not govern.

**14.01.030 APPLICATION PROCESS AND FEES.** An application for an annexation of real property into the City of Hailey shall be filed with the Hailey Planning and Zoning Administrator (“Administrator”) by the owner of the real property or by at least one holder of an interest in real property for which the annexation is proposed. The applicant shall pay the non-refundable application fee for the proposed annexation, as established by ordinance, at the time of the filing of the annexation application. During the review of an application for annexation, an applicant shall also pay for city staff time on an hourly basis, as established by ordinance, to review and comment on the application, to assist and prepare any fiscal impact required for an annexation and to prepare any necessary reports and findings. If the applicant fails to pay the city fees on a timely basis, the City is authorized to suspend or if deemed appropriate, terminate the processing of the annexation application. In the event an application for annexation is approved and an annexation ordinance is adopted, the applicant will be required to pay for all costs associated with the filing of the annexation ordinance and the preparation of the legal description and a map prepared in a draftsmanlike manner that designates the boundaries of annexed property to be recorded with the county recorder pursuant to state law.

**14.01.040 CONCURRENT ZONING CLASSIFICATION.** The City shall concurrently with the application for annexation consider an application for a zoning classification consistent with the requirements (including notice provisions) and standards of Article XIV of the Hailey Zoning Ordinance. The City shall not consider any other application by the applicant on the subject property under the City’s zoning or subdivision ordinance unless and until the application for annexation has been approved and an annexation ordinance has been adopted and published in accordance with state law.

**14.01.050 SUBMITTAL REQUIREMENTS.** Except as otherwise provided, the application shall include or attach at least the following:

- A. Application fees established by ordinance.
- B. A statement of the size of the property in square footage and acres.
- C. A description of the proposed project, including the approximate a) number and size of proposed lots, b) length and location of the proposed water and sewer mains, c) length and location of proposed streets and alleys, and d) length and location of the proposed sidewalks.
- D. A schematic design of the entire project showing the proposed uses, density, streets, alleys, easements, and proposed size and location of open spaces and parks.
- E. A statement describing how the proposed project complies with specific goals and policies of the Hailey Comprehensive Plan.
- F. A statement describing how the proposed project is compatible with adjacent neighborhood(s).

G. A statement describing how the applicable natural resources (e.g., water courses, springs, streams, wildlife and access to public lands) and natural hazards (e.g., avalanche, floodplains and floodways) are incorporated into proposed project and/or mitigated.

H. A statement describing what contributions and/or dedications the applicant is willing to make as part of the proposed annexation.

I. A description of how the proposed annexation will protect Hailey's established or proposed wellhead protection zones.

J. A detailed description of how the annexation will impact the existing municipal infrastructure and services (e.g., water, sewer, streets, library, police, fire and parks).

K. A statement of who will maintain the streets, alleys, parks and utilities (privately and publicly owned utilities) and how the maintenance of the streets, alleys, parks and utilities (privately and publicly owned utilities) will be funded.

L. A phasing plan showing the proposed dates of construction and completion of phased construction for infrastructure, streets, alleys, utilities and all other development. In the case of a phased project, items C and D above may be omitted for future phases; however provisions shall be made within an annexation agreement for submittal of plans and payment of fees for future phases.

M. Unless the Administrator determines, in the Administrator's sole and absolute discretion, one or more of the following studies are not warranted based on the size, scope and impact of a proposed annexation, the following studies shall be submitted:

- a) Traffic study showing impact on adjacent streets and streets that would serve the proposed project.
- b) Floodplain study (if applicable).
- c) Avalanche study (if applicable).
- d) Wetland study (if applicable).
- e) Wildlife study.
- f) A Level I environmental study showing the presence of any hazardous waste.
- g) Contour map depicting 15% and 25% slope lines measured at two foot (2') intervals.

N. A list of names and mailing addresses of all property owners within 300' of the external boundaries of the proposed annexation and the names and mailing addresses of all easement holders within the proposed annexation.

O. A fiscal impact analysis or an updated fiscal impact analysis in accordance with Section 14.01.090(B). The analysis may be submitted at the time of the application for annexation, or when the application is reviewed by the Hailey City Council ("Council") as set forth in Section 14.01.090.

**14.01.060 CERTIFICATION AND REVIEW.** The Administrator shall review the application to determine whether the application is complete. Once the applicant and the City enter into a written agreement for the payment of staff time and once the Administrator finds the application complete, the Administrator shall certify the application as complete and shall submit the application for review and comment to the applicable City departments and appointed recommending boards. Following receipt of comments by the City departments and boards, the Administrator shall schedule a meeting with the Hailey Planning and Zoning Commission (“Commission”) at its next regular available meeting for review of the application by the Commission.

**14.01.070 NOTICE.** The City Clerk shall mail to each addressee in the list furnished by the applicant a copy of the notice of the time and place of the hearing at least fifteen (15) days before the date set for a hearing. The applicant has the burden of providing to the City an updated and correct list of property owners during the public hearing process. When notice is required to two hundred (200) or more property owners or purchasers of record, alternate forms of notice may be provided in lieu of mailed notice. Sufficient notice shall be deemed to have been provided if the City provides, at the applicant’s expense, notice through a display advertisement at least four inch (4”) by two inch (2”) column in size in the official newspaper of the City at least fifteen (15) days prior to the hearing, in addition to site posting on all external boundaries of the site. The applicant shall reimburse the City for all mailing costs and publication costs associated with providing notice hereunder. Any notice for annexation which is mailed and published shall contain:

- A. The time and place of the hearing.
- B. A brief description of the land which is the subject of the matter to be heard.
- C. The purpose of the hearing and the proposed uses for the land.
- D. Any other information, required by the Administrator, which is necessary or desirable in the public interest.

**14.01.080 COMMISSION REVIEW.** Subject to its bylaws, the Commission shall conduct a public hearing to review the application for annexation. The Commission shall review the particular facts and circumstances of a proposed annexation for the purpose of determining (1) whether the proposed annexation will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan and (2) whether the proposed annexation generally complies with the Hailey Comprehensive Plan. The Commission shall also make a recommendation that the property sought to be annexed should be zoned as one or more particular zoning districts, as more fully described in the Hailey Zoning Ordinance. The Commission shall make findings of fact and conclusions of law relating to the application’s general compliance with the Hailey Comprehensive Plan and to the Commission’s recommendation for zoning. The Commission shall forward those findings and conclusions in writing to the Council and the applicant.

**14.01.090 COUNCIL REVIEW.**

A. Conduct and Notice of Council Hearing. Upon receipt of the Commission’s findings of fact and conclusions of law, the Council shall schedule a public hearing to review the application for annexation. Notice of the public hearing shall be conducted

in the same manner as the notice for a Commission hearing pursuant to Section 14.01.070 of this Chapter. The Council shall have the right to request further information deemed necessary by the Council at any time during the proceedings.

B. Fiscal Impact. To assist the Council in the determination whether an annexation will have any negative fiscal impact, the Council may, in its sole and absolute discretion, require the applicant for annexation, at the applicant's sole expense, to submit a fiscal analysis or an updated fiscal analysis by a qualified and independent person or firm acceptable by the Council and in a format acceptable by the Council, to determine the proposed annexation's impact and to recommend the base amount of annexation fees. The Council retains the right to require further monetary or non-monetary contributions for any annexation. The applicant has the right to seek the City's approval of such a fiscal impact study at any point in the annexation process.

C. Findings. During the public hearing process of the application for annexation, the Council shall make its own findings of fact and conclusions of law to determine:

1) whether the proposed application will be harmonious and in accordance with specific goals and policies of applicable components of the Hailey Comprehensive Plan, and

2) whether the proposed annexation generally complies with the Hailey Comprehensive Plan, and

3) to the extent possible, whether the proposed annexation will have a negative fiscal impact upon the existing citizens of Hailey at the time of an annexation and in the future.

If the Council finds general compliance with the Hailey Comprehensive Plan, the Council shall then consider the application for a zoning classification and consider any and all factors it deems, in its sole and absolute discretion, important to determine whether an application for annexation shall be granted or denied. If the Commission made negative findings related to the Comprehensive Plan under Section 14.01.080 and therefore did not make a recommendation on zoning classification for the property sought to be annexed, but the Council subsequently made favorable findings related to the Comprehensive Plan and wishes to proceed with the annexation, the Council shall remand the proceedings to the Commission for its recommendation on zoning classification.

D. Decision. The Council has the sole and absolute discretionary right to approve, approve with conditions or deny an application for annexation. In addition, the Council is authorized to require, as a condition of approval, that the applicant and the City enter into an annexation agreement providing for the terms and conditions of an approved annexation. In the event a subsequent development proposal materially differs from the development shown in approved annexation, the annexation agreement shall provide that the proposed development may be denied, that the applicant shall be responsible for any increased annexation fees and/or that the property may be deannexed. There shall be no right of an appeal by an applicant or by

an affected party from an adverse recommendation by the Commission or from an adverse decision of the Council on an annexation application. If the Council elects to approve the application for annexation with or without conditions, the Council shall also establish the appropriate zoning district(s) for the annexed property in accordance with the procedures set forth in Article XIV of the Hailey Zoning Ordinance.

**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 November, 2004.

ATTEST:

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Susan McBryant, Mayor  
City of Hailey

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Heather Dawson, City Clerk