

HAILEY ORDINANCE NO. 999

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, ADOPTING A NEW CHAPTER 2.32 OF THE HAILEY MUNICIPAL CODE, ENTITLED HAILEY ARTS COMMISSION, TO PROVIDE A PURPOSE, ESTABLISH A HAILEY ARTS COMMISSION AS A RECOMMENDING BODY, CREATE THE POWERS AND DUTIES OF THE HAILEY ARTS COMMISSION, AND TO PROHIBIT A CONFLICT OF INTEREST; ADOPTING A NEW CHAPTER 3.08 OF THE HAILEY MUNICIPAL CODE, ENTITLED PUBLIC ART, TO PROVIDE A PURPOSE, TO CREATE DEFINITIONS, TO PROVIDE FOR APPLICABILITY, TO ESTABLISH GENERAL REQUIREMENTS FOR PUBLIC ART, TO PROVIDE FOR ADMINISTRATION AND TO ESTABLISH FUNDING SOURCES; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE

WHEREAS, the Mayor and Hailey City Council wish to promote and support public art within the City of Hailey;

WHEREAS, the Mayor and Hailey City Council believe strongly that public art contributes to and enhances the beauty of public areas and the quality of life for the citizens of Hailey;

WHEREAS, the citizens of Hailey have shown overwhelming support for public art within their community;

WHEREAS, public art has been shown to attract tourism and to provide incentives to businesses to locate within communities which support public art;

WHEREAS, it is the purpose of this Ordinance to establish a separate Hailey Arts Commission to make recommendations to the Mayor and Hailey City Council about public art and related programs;

WHEREAS, it is the purpose of this Ordinance and the policy of the City of Hailey to promote such public art by the collection of one and twenty-five hundredths percent (1.25%) of the total cost of City of Hailey public capital improvement projects; and

WHEREAS, an additional purpose of this Ordinance is to install artwork chosen in a manner which enhances such capital improvement project where appropriate and practicable and yet to retain flexibility where necessary.

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

**Section 1.** Title 2 of the Hailey Municipal Code is amended by the addition a new Chapter 2.32, as follows:

## Chapter 2.32

### HAILEY ARTS COMMISSION

2.32.010 Purpose. It is the purpose of this ordinance to establish a Hailey Arts Commission to ensure the arts are valued as an integral part of Hailey and to enhance the culture of the Hailey community by providing leadership, advocacy and support for the arts.

2.32.020 Establishment. The Hailey Arts Commission for the City of Hailey is hereby established. The Hailey Arts Commission shall consist of not more than seven (7) but not less than five (5) voting members. Each member shall be appointed by the Mayor and approved by the City Council, shall have been a resident of Blaine County for two (2) years prior to appointment to the Hailey Arts Commission and shall be a resident of the City of Hailey at the time of appointment, except that two (2) members may reside outside the corporate limits of the City of Hailey, but within the City's Area of Impact, and/or be employed as a full-time employee or own a business or enterprise devoted to the promotion of the arts. Each member must remain a resident of the City, or, in the case of the City's Area of Impact, within the impact area, during the term of his or her membership on the Hailey Arts Commission. Each member shall serve for a term of three (3) years. The terms shall be staggered and shall be filled in the same manner as original appointments, but replacements shall serve only until the expiration of the original term. The Hailey Arts Commission shall elect officers from among the members of the Hailey Arts Commission. The chairperson shall preside at meetings of the Hailey Arts Commission. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson.

2.32.030 Recommending Body. The Hailey Arts Commission shall have no authority to bind any governing body affected by planning decisions. However, the Hailey Arts Commission shall have the power to make recommendations, upon a majority vote of its attending members, to the City Council, the Hailey Planning & Zoning Commission, the Hailey Historic Commission, the Hailey Parks & Lands Board, the Hailey Library Board or others.

2.32.040 Powers and Duties.

A. Unless otherwise provided by law, the Hailey Arts Commission shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this Ordinance. Rules of procedure and bylaws adopted by the Commission shall be available for public inspection.

B. The Hailey Arts Commission shall perform any and all of its obligations for the creation and maintenance of public art pursuant to Chapter 3.08 of the Hailey Municipal Code.

C. All meetings of the Hailey Arts Commission shall be open to the public, and follow the requirements of Idaho's open meeting laws. The Hailey Arts Commission shall keep minutes and other appropriate written records of its resolutions, proceedings, and actions. All public hearings shall be conducted following public hearing procedures contained in Chapter 2.04 of Hailey Municipal Code.

D. The Hailey Arts Commission may recommend to the City Council, within the limits of the City's funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the Commission.

E. The Hailey Arts Commission shall, in consultation with City Department Heads, prepare an annual report/plan to the Hailey City Council on all upcoming and in progress art projects, as well as the condition and maintenance requirements on all completed works of art in the public art program. This annual report/plan shall be reviewed and adopted in coordination with the budget process on an annual basis by the Hailey City Council. The report/plan shall be amended and re-approved through the year as necessary. Approvals of funding for the report will be enacted by the City Council as a component of the approved budget.

F. The Hailey Arts Commission shall promote activities that support public awareness and understanding of the public art collection in Hailey, including but are not limited to walking tours, printed materials, lectures, website development and website maintenance.

2.32.050 Conflict of Interest. Each member of the Hailey Arts Commission shall be governed by the Ethics in Government Act, Idaho Code §§ 59-701 *et seq.*, as amended.

**Section 2.** Title 3 of the Hailey Municipal Code is amended by the addition a new Chapter 3.08, as follows:

Chapter 3.08

PUBLIC ART

3.08.010 Purpose. It is the purpose of this Ordinance and the policy of the City to beautify public areas, to enhance the quality of life for Hailey citizens, to attract tourism, to enhance community interest in municipal facilities and to promote economic revitalization through the dedication of one and one quarter percent (1.25%) of the actual cost of all eligible Capital Improvement Projects for the funding of art in public places in the City.

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

“Capital Improvement Projects” shall, for the purposes of this Chapter, mean every capital municipal construction or improvement project or portion thereof, paid for wholly or in part by the City where the total cost of such project is reasonably anticipated to be in excess of twenty five thousand dollars (\$25,000.00). A Capital Improvement Project shall include construction, renovation or remodel of any public park, public building or structure, street or road, or public parking facility whether developed by the City or developed privately and leased back to the City.

Capital Improvement Projects shall exclude:

1. Maintenance of public improvements such as streets, sidewalks, curbs, alleys or right-of-way improvements;
2. Subsurface public utility improvements such as storm and sanitary sewers, water lines, fire hydrants, and other appurtenances;
3. The portion of a Capital Improvement Project funded by State and/or Federal monies which prohibit expenditure of such monies for the arts;
4. A Capital Improvement Project undertaken before the effective date of this Ordinance; or
5. A Local Improvement District.

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

“City Council” shall mean the duly elected and/or appointed city council of the City.

“Hailey Arts Commission” shall mean the commission established the City under Chapter 2.32 of the Hailey Municipal Code to promote art and cultural events and programs within the City.

“Public Art Account” shall mean that segregated account established under Section 3.08.050 of this ordinance and administered by the Hailey City Treasurer.

3.08.030     Applicability. Capital Improvement Projects shall be governed by this Chapter. In the event a bond is used to fund a Capital Improvement Project, the Capital Improvement Project shall be an eligible capital improvement project if so approved by a) the bond election ordinance, or b) the bond ordinance authorizing revenue bonds or c) other appropriate laws or regulations. Where a Capital Improvement Project is funded in whole or in part by State and/or Federal monies, only the portion of the Capital Improvement Project which permits expenditure of such monies for the arts shall be used to calculate the one and twenty-five hundredths percent (1.25%) dedication for the arts. Where a Capital Improvement Project is funded in whole or in part by State and/or Federal monies and the State or Federal monies do not allow for expenditure of such monies for the arts, only the portion of the City’s required financial contribution to such Capital Improvement Project shall be used to calculate the one and twenty-five hundredths percent (1.25%) dedication for the arts and such percentage shall be in addition to the City’s minimum required contribution to such Capital Improvement Project.

3.08.040     General Requirements for Public Art.

A.     All works of public art will be located in a public place with public visibility and impact, and shall comply with all standards and guidelines for art in public places as recommended by the City of Hailey Arts Commission and approved by the City Council.

B.     A professional artist will be selected through a public selection process to consult, conceptualize, and/or design and fabricate an art component for the identified capital project.

C. Public art purchased pursuant to this ordinance may be existing artwork or newly commissioned artwork.

D. Works of art may be an integral part of a structure, attached to a structure or detached from a structure within or outside of it. Works of art may also be located on any publicly owned property.

E. Selected public art shall be consistent with Hailey's Comprehensive Plan, Zoning Ordinance and Subdivision Ordinance.

3.08.050 Administration.

A. The City shall empower the Hailey Arts Commission, or its designee, to be responsible for the selection of artists, project management and maintenance all public art in the City.

B. A Public Art Account shall be created into which funds from this ordinance shall be deposited. A separate sub-account shall be established for the maintenance and conservation of commissioned public art works. Money from the Public Art Account may not be spent for:

1. Objects of standard design or mass production.
2. Directional elements-unless executed by artists.

C. During annual budget process or during an interim budget process related to Capital Improvement Projects, the public art budget for each City project shall be identified and transmitted to the City Council. Funds for the public art component will be appropriated from the fund within which the Capital Improvement Project is budgeted.

D. A professional artist shall be selected through a public selection process to consult, conceptualize, and/or design and fabricate an art component for the identified capital project.

E. All works commissioned and purchased under this ordinance shall be maintained in perpetuity, unless de-accessioned from the collection. This includes regular care such as, but not limited to, cleaning, re-surfacing, and replacement of parts as well as care in response to vandalism. The Hailey Arts Commission or its designee is responsible for the maintenance of the public art collection.

F. Activities that support public awareness and understanding of public art in the City such as walking tours, printed materials, lectures and website development and maintenance may be funded from the Public Art Account, as recommended by the Hailey Arts Commission, and approved by the City Council.

G. An Annual report shall be prepared by the Hailey Arts Commission and submitted to the City Council on the condition and maintenance requirements on all public art established under this ordinance.

H. All completed artworks commissioned or purchased through this ordinance will be owned, insured, and maintained by the City.

3.08.060 Source of Funds.

A. From each qualifying and funded Capital Improvement Project, the City shall set aside an amount equal to one and one quarter percent (1.25%) of such Capital Improvement Project's construction budget for the purchase and installation of public art regardless whether the Capital Improvement Project is completed.

B. In computing the amount to set aside in the Public Art Account, the project's budgeted costs to the City shall include all amounts paid by the City to third parties in connection with the projects, including but not limited to, amounts paid on contracts relating to the project and consultant fees incurred in connection with the project, but shall not include any portion of the project's cost which is not funded by the City unless it meets the definition of a Capital Improvement Project. The budget for the public art component shall be calculated for the budgeted eligible Capital Improvement Project costs at the time of project approval by the City Council. The City Council may modify the public art component budget if during planning or implementation of the project, the eligible capital project costs significantly vary from the budgeted costs at time of approval.

C. Of the one and one quarter percent (1.25%) from each qualifying Capital Improvement Project allocated to the Public Art Account:

1. No less than one percent (1%) of the eligible Capital Improvement Project costs shall be allocated toward purchase, creation or installation of public art pieces.

2. No more than one quarter of a percent (.25%) shall be used for administrative costs, including, but not limited to, costs of selection, project management, maintenance, repair and conservation.

D. As capital projects may require more than one year to implement, all unexpended project funds will be eligible to be re-budgeted each year, until project completion.

E. The Hailey Arts Commission may recommend and the City Council may decide that monies in the Public Art Account be pooled to do a larger project and/or expended on a project at an alternate site to be determined by the City.

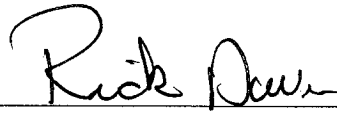
F. Nothing contained herein shall preclude funding City public art by matching monies, donations, grants or other means.

**Section 3.** 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 4.** All ordinances and parts of ordinances in conflict herewith are hereby repealed.

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

ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR  
this 14th day of January, 2008.

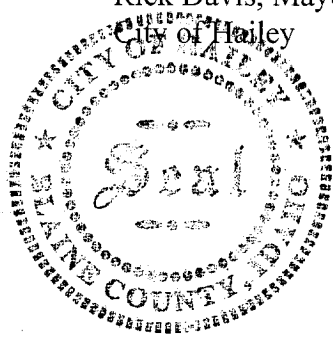


Rick Davis, Mayor

ATTEST:



Heather Dawson  
Hailey City Clerk



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