

AGENDA ITEM SUMMARY

DATE: 4/9/2012

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Proposed ordinance amending Hailey's Annexation Procedures Ordinance (Title 14 of the Municipal Code)

AUTHORITY: ID Code _____ IAR _____ City Ordinance/Code _____
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Hailey was presented with a preliminary initiative petition to amend our Annexation Ordinance. The proposed language essentially requires an annexation applicant to post security for improvements and annexation fees. I was directed to draft an ordinance adopting the suggested ordinance. In an attempt to improve the language, I revised the language but the language maintains the purpose of the proposed initiative.

At the March 5, 2012, council meeting, I was asked to draft language to require a fiscal analysis unless the property was 10 or fewer lots, in which case the council would have the authority but would not necessarily be required to mandate a fiscal study. Suggested language is found in Section 14.01.090(B). Please note that I also added language at the end of the security language which requires security to be posted before the effective date of an annexation ordinance.

At the March 19, 2012, council meeting, I was asked to incorporate language into the draft which required a subdivision application at the time of the annexation application and addressed water rights. The latest language is shown in bold print. In section 14.01.090(D), please note that the language is essentially the same as the language found in Idaho Code § 67-6537.

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS Case# _____
Budget Line Item # _____ YTD Line Item Balance \$ _____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: _____ Phone # _____
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

____ City Attorney	____ Clerk / Finance Director	____ Engineer	____ Building
____ Library	____ Planning	____ Fire Dept.	_____
____ Safety Committee	____ P & Z Commission	____ Police	_____
____ Streets	____ Public Works, Parks	____ Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct a public hearing, discuss the proposed amendment and make any suggested revisions and corrections. If appropriate, make a motion to adopt the ordinance and authorize the mayor to conduct the first reading of the ordinance.

FOLLOW-UP REMARKS: 4/9/2012 - public hearing conducted, first reading of ordinance held.
4/16/2012 - 2nd reading of ordinance

Hailey Ordinance No. _____

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 14.01 OF THE HAILEY MUNICIPAL CODE, ENTITLED ANNEXATION PROCEDURES, BY AMENDING SECTION 14.01.040 TO REQUIRE CONCURRENT SUBDIVISION AND ANNEXATION APPLICATIONS; AMENDING SECTION 14.01.050 TO REQUIRE A DESCRIPTION OF WATER RIGHTS APPURTENANT TO THE PROPERTY TO BE ANNEXED; AMENDING SECTION 14.01.090 TO GENERALLY REQUIRE A FISCAL ANALYSIS FOR ANNEXATION OF PROPERTY, TO AUTHORIZE THE POSTING OF SECURITY FOR IMPROVEMENTS, ANNEXATION FEES AND CONTRIBUTIONS AND TO REQUIRE APPURTENANT SURFACE WATER RIGHTS TO BE USED AS THE PRIMARY SOURCE OF IRRIGATION; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and the City Council of the City of Hailey desire to authorize the City to require concurrent subdivision and annexation applications, a description of water rights appurtenant to the be real property to be annexed, a fiscal study for annexed property, security for improvements and for annexation fees and contributions required for any annexation, and the use of surface water appurtenant to the land to be annexed as the primary water source; and

WHEREAS, the Mayor and the City Council of the City of Hailey believe it is appropriate to amend Chapter 14.01 of the Hailey Municipal Code to authorize concurrent subdivision and annexation applications, require a description of water rights appurtenant to the be real property to be annexed, require a fiscal study for annexed property, require security for improvements and for annexation fees and contributions required for any annexation, and establish the use of surface water appurtenant to the land to be annexed as the primary water source.

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

Section 1. Section 14.01.040 of the Hailey Municipal Code is hereby amended by the addition of the underlined language and the deletion of the stricken language, as follows:

14.01.040 CONCURRENT ZONING CLASSIFICATION. The City shall concurrently with the application for annexation consider ~~an applications for -one or more zoning classifications and a subdivision plat~~ consistent with the requirements (including notice provisions) and standards of Article XIV of the Hailey Zoning Ordinance, Hailey Ordinance No. 532, as amended, and the Hailey Subdivision Ordinance, Hailey Ordinance No. 821, as amended. 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.

Section 2. Section 14.01.050 of the Hailey Municipal Code is hereby amended by the addition of the underlined language, as follows:

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.

P. A description of all water rights, including all surface and ground water rights, appurtenant to the real property subject of the annexation. The description of all water rights shall include a description of all the elements of the water rights, including but not limited to the source, quantity, priority date, point of diversion, purpose and period of use, place of use, and any provisions or conditions attached to the water right. The applicant shall attach all decrees, licenses and permits describing the water rights to the application for annexation.

Section 3. Section 14.01.090 of the Hailey Municipal Code is hereby amended by the addition of the underlined language and by the deletion of the stricken language, as follows:

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, shall, except as otherwise provided herein,~~ 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 may, in its sole and absolute discretion, require the applicant for annexation of real property of ten (10) or fewer lots based on the base density of the zoning district(s) adopted

for the annexed property, 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 the goals and policies of applicable components of the Hailey Comprehensive Plan,
- 2) whether the proposed annexation would be in the best interests of the citizens of Hailey, 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. The Council may also require the applicant, as a condition of approval, to construct certain improvements, including but not limited to private and/or public utilities, facilities, recreational or other amenities and landscaping, and to pay such annexation fees or other monetary or non-monetary contributions as the Council deems necessary to protect the health, safety and general welfare of the citizens of Hailey. In the event the fees and/or contributions are not paid at the time of annexation approval, the Council shall require the applicant to provide security in the form of a performance bond, irrevocable letter of credit or cash equivalent acceptable to Hailey for one-hundred and fifty percent (150%) of the bona fide estimate of the cost of the improvements and one-hundred percent (100%) of the fees and/or contributions within thirty (30) days of the date when the Council approves the application but before the effective date of any annexation ordinance. Furthermore, the Council may, consistent with Idaho Code § 67-6537, require the applicant, as a condition to approval, to use all surface water appurtenant to the real property to be annexed as the primary water source for irrigation of the real property to be annexed.

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

Section 5. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 6. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED
BY THE MAYOR THIS _____ DAY OF APRIL, 2012.**

Fritz X. Haemmerle, Mayor

Attest:

Mary Cone, City Clerk