CITY OF HAILEY

RESOLUTION NO. 2009-

A RESOLUTION OF THE HAILEY CITY COUNCIL TO PRESENT A LOCAL OPTION TAX MEASURE TO HAILEY VOTERS ON NOVEMBER 3, 2009, FOR THE PURPOSE OF SETTING A TWENTY-YEAR TERM FOR THE COLLECTION OF LOCAL OPTION TAX WITHIN THE HAILEY CITY LIMITS FOR THE SAME TYPES, RATES AND PURPOSES OF THE TAX AS PREVIOUSLY ESTABLISHED IN HAILEY'S 2006 LOCAL OPTION TAX ORDINANE NO. 950.

WHEREAS, the Mayor and City Council of the City of Hailey endeavor to proactively meet their fiduciary responsibilities; and

WHEREAS, the Mayor and City Council conducted a professional financial study in 2002 through Tischler & Associates, Inc., which found that:

- The City's present revenue structure is heavily reliant on: 1) local property tax, and 2) shared revenue from the State. This is fiscally constraining to the City since State law limits the City's growth in existing assessable property tax base and a downturn in the economy will likely result in less shared revenue from the State.

- Other than property tax, the City has no other revenue source of significance generated by nonresidential development.

WHEREAS, in its 2005 legislative session, the Idaho State Legislature did divert seven million two hundred thousand dollars ($7,200,000) in liquor dispensary taxes away from cities and counties through House Bill 392; and

WHEREAS, in the current economic recession state revenues are severely affected, which has resulted in less state tax revenue to cities and the potential of the state legislature using its authority to alter tax distribution formulas upon which cities have long relied by proposing future legislation limiting shared revenue from the state to cities; and

WHEREAS, the Mayor and City Council adopted a revenue diversification strategy by the adoption of the 2003 Tischler & Associates Inc. Revenues Strategies Report , which recommended that the Hailey City Council put a Local Option Tax measure before Hailey voters; and

WHEREAS, preliminary research was conducted in 2004 which found that the occupancy rate at Hailey-area hotels exceeds fifty percent (50%) year round, and that Hailey based facilities such as local parks and theaters draw a significant number of people from outside of the Hailey area, and that the taxable annual revenue from rental car businesses in Hailey is approximately three million dollars ($3,000,000); and

WHEREAS, the Hailey City Council directed the Mayor to appoint a citizen committee in 2005 to conduct extended research and make recommendations to the Hailey City Council regarding a Local Option Tax; and

WHEREAS, the Local Option Tax Citizens Committee recommended that:

- Hailey derives a major portion of its economic well-being from businesses catering to tourists, including car rental companies, restaurants, motels, bike shops, theaters, gas stations, nurseries and real estate companies and that Hailey is a destination for tourist activity;
- A Local Option Tax should be primarily borne by the tourists impacting city services, and types of taxes which would not burden Hailey citizens include rental cars, hotel and motel rooms, restaurant sales of food, and sales of alcoholic beverages;
- the tax rates at which these sales should be taxed are 3% for car rentals and lodging, 2% for the sale of alcoholic beverages, and 1% for the sale of restaurant food; and
- the term or duration of the tax should not exceed four (4) years, a period which is short enough to allow the community to test the functional value of the tax and long enough to derive positive results from the tax;
- the purpose of the tax be for emergency services, transportation, parks, economic development, marketing and promotion, and administration of the LOT tax.

WHEREAS, the Hailey City Council accepted the recommendations of the LOT Committee, and in 2006 set an Ordinance before city voters for the types, rates, and purposes of the tax as recommended by the committee, as well as a four-year term to give residents a testing period relative to the value of a Local Option Tax in Hailey; and

WHEREAS, Hailey voters adopted Ordinance 950 in May, 2006, which ordinance became effective on July 1, 2006 and tax began to be collected.

WHEREAS, Hailey has entered the final year of the 4-year local option tax term; and

WHEREAS, in the first three years of the tax, Hailey collected one million, forty-four thousand, five hundred seventy-five dollars ($1,044,575) in local option tax revenue, at an average of nearly $350,000 per year or $30,000 per month.

WHEREAS, Hailey has spent that money on a snow blower, fire truck, striping of Woodside Boulevard and installation of pedestrian lighted crosswalks downtown,, has added police officers to staff, increased traffic enforcement, purchased a radar trailer, added down-valley routes to Mountain Rides, participated in Safe Routes to School programs, offered free ridership within Hailey to Mountain Rides bus passengers, funded economic development through the Hailey Chamber of Commerce and Sustain Blaine, improved restroom in Hailey Public Library, and spent funds on park maintenance in all Hailey City Parks.

WHEREAS, Hailey plans to fund, from revenues in its final year of the tax, continued contributions for economic development activities, increased contributions to Mountain Rides for the purpose of adding an around-town circulator to service areas currently not reached by the bus system, increasing Mountain Rides down-valley routes, paying for a tree inventory for use in the Tree Committee's urban forestry management plan, developing a brochure for the Hailey Arts Commission, adding park

swings to Keefer and Echo Hill park, purchasing surveillance cameras for parks and other needs, and potentially purchasing the first hybrid vehicle for the Hailey Police Department's fleet.

WHEREAS, the additional depth the local option tax has added to Hailey's ability to provide services to the community in terms of added safety, economic development, and quality of life has proven to be significant; and

WHEREAS, discontinuance of the local option tax would diminish Hailey's ability to provide services, or local taxpayers would have to pay more for such services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY that:

A Local Option Tax measure be brought to Hailey voters for the purpose of setting a new term for the local option tax, and that term be for twenty (20) years, and that the rates, types, and purposes of the tax be unchanged.

THE HAILEY CITY COUNCIL FURTHER RESOLVES that the local option tax election be held on November 9, 2009.

THIS RESOLUTION IS ADOPTED this _____ day of _____, 2009.

HAILEY ORDINANCE NO. ___

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 5 OF THE HAILEY MUNICIPAL CODE, ENTITLED BUSINESS LICENSES AND REGULATIONS BY AMENDING SECTION 5.32, ENTITLED NON-PROPERTY TAXES, PROVIDING FOR A TWENTY-YEAR DURATION OF NON-PROPERTY TAXES AUTHORIZED AND COLLECTED UNDER THIS ORDINANCE, FROM THE EFFECTIVE DATE OF THIS ORDINANCE; FINDING THAT THE CITY OF HAILEY IS A RESORT CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE IMPOSITION OF CERTAIN NON-PROPERTY TAXES, TO-WIT: A THREE PERCENT (3%) TAX ON THE RENTAL OF VEHICLES, A THREE PERCENT (3%) TAX ON HOTEL-MOTEL OCCUPANCY CHARGES, A TWO PERCENT (2%) TAX ON RETAIL SALE OF LIQUOR BY-THE-DRINK, AND A ONE PERCENT (1%) TAX ON THE SALE OF RESTAURANT FOOD; PROVIDING FOR A FOUR-YEAR DURATION OF THE NON-PROPERTY TAXES; ESTABLISHING THE PURPOSES FOR WHICH THE REVENUES DERIVED FROM SAID NON-PROPERTY TAXES SHALL BE USED; PROVIDING FOR CREATION OF A PROPERTY TAX RELIEF FUND; AUTHORIZING THE CITY CLERK TO ADMINISTER, REGULATE, AND COLLECT THE NON-PROPERTY TAXES; PROVIDING FOR MUNICIPAL NON-PROPERTY TAX PERMITS AND ISSUANCE THEREOF; PROVIDING FOR THE METHOD FOR PAYMENT OF TAXES; PROVIDING FOR AUDITSAND DEFICIENCY DETERMINATIONS; PROVIDING FOR REDETERMINATIONS OF DEFICIENCY; PROVIDING FOR APPEALS AND INTEREST ON DEFICIENCY; PROVIDING FOR COLLECTIONS AND ENFORCEMENT; PROVIDING FOR REFUNDS, LIMITATIONS AND INTEREST; PROVIDING FOR RESPONSIBILITY FOR PAYMENT OF TAXES; PROVIDING PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION; ESTABLISHING SUCCESSOR'S LIABILITY; PROVIDING FOR GENERAL ADMINISTRATION BY CITY CLERK; PROVIDING PENALTIES AND PENALTY CHARGES; PROVIDING FOR EXEMPTIONS; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the Mayor and Hailey City Council find that the City derives the major portion of its economic well-being from people catering to recreational needs;

WHEREAS, the Mayor and Hailey City Council find that the City has a significant economic dependence upon visitors and travelers passing through or staying in the city;

WHEREAS, the Mayor and Hailey City Council find that visitors and travelers to the City of Hailey require municipal services which place an undue burden upon City taxpayers; and

WHEREAS, the Mayor and Hailey City Council find that the volume of visitors has increased the impact on City services, including emergency response services, and increased the impact on City parks, streets and other City infrastructure.

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

SECTION 1. ADOPTION. Title 5, Business Licenses and Regulations, of the Hailey Municipal Code is amended by the addition of a new Chapter 5.32, entitled "Non-property Taxes," with the addition of the following language:

5.32.010 Findings. The City Council of the City of Hailey hereby finds that a) the City of Hailey is a municipal corporation and a political subdivision of the State of Idaho, organized under the general laws of the State of Idaho, b) the population of the City of Hailey is less than 10,000 according to the most recent census, c) the City of Hailey has a significant economic dependence upon visitors and travelers passing through or staying in the City of Hailey, and d) the City of Hailey derives the major portion of its economic well-being from businesses catering to recreational needs and meeting needs of people traveling to the City of Hailey for an extended period of time. Based on these findings, the Hailey City Council finds that the City of Hailey is a resort city as defined by Idaho Code §50-1044.

5.32.020 Definitions. For the purposes of this Ordinance, the following terms, phrases, words and derivations shall have the meaning given herein:

"City" shall mean either the municipal corporation of the City of Hailey, Blaine County, Idaho.

"City Clerk" shall mean the duly appointed and acting city clerk for the City, and his/her duly authorized deputy.

"Hotel-Motel" shall mean any business including hotels, motels, condominiums, tourist homes, other sleeping accommodations and any other business which in the regular course of business rents or leases for occupancy temporary lodging to individuals, with or without meals, except where a residence is maintained continuously under terms of a lease or similar agreement for a period in excess of thirty (30) days.

"Liquor By-The-Drink" shall mean and include all of the following:

(A) "Alcohol" means the product of distillation of any fermented liquor, rectified either once or oftener, whatever may be the origin thereof, or synthetic ethyl alcohol.

(B) "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution, including, among other things, brandy, rum, whiskey, and gin.

(C) "Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits (grapes, apples, etc.) or other agricultural products containing sugar (honey, milk, etc.).

(D) "Beer" means any alcoholic beverage obtained from the fermentation of sugar, barley, hops, malt, yeast and similar ingredients.

(E) Any liquid or solid, patented or not, containing alcohol, spirits, or wine and susceptible to being consumed by a human being, for beverage purposes.

"Person" or "person" shall mean any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit.

"Rental Vehicle" shall mean a passenger motor vehicle, rented or leased for temporary use or occupancy, except where a vehicle is leased or occupied under the terms of a lease or similar agreement for a period in excess of thirty (30) days. For the purpose of this ordinance, Rental Vehicle shall not include operated vehicle rentals.

"Rental Vehicle Charge" shall mean the total amount charged for rental use of a Rental Vehicle, valued in money, whether paid in money or otherwise, without any deduction.

"Restaurant Food" shall mean all food, meals or drinks, and nondepreciable goods and services directly consumed by customers included in the charged thereof, which are furnished, prepared and sold on the premises and which are customarily furnished, prepared and sold as the primary use of the premises.

"Room Occupancy Charge" shall mean the total amount charged for rental use or temporary occupancy of a room or living unit in a Hotel-Motel, valued in money, whether paid in money or otherwise, without any deduction.

"Retail Sale" shall mean the sale of Liquor By-The-Drink for consumption on the premises and/or sale of Restaurant Food on the premises, other than resale in the regular course of business, and shall include any transfer of money, title, exchange, barter or credit, conditional or otherwise, in any manner or by any means whatsoever as consideration.

"Sale" or "sale" shall mean any transfer of title, exchange or barter, conditional or otherwise, of tangible personal property for a consideration and shall include any similar transfer of possession found by the state tax commission to be in lieu of, or equivalent to, a transfer of title, exchange or barter. For the purpose of this definition, sale shall include the lease or rental of tangible personal property.

"Sales Price" shall mean the total amount for which Liquor By-The-Drink or Restaurant Food is sold, and the total amount of the Rental Vehicle Charge or Room Occupancy Charge, including services agreed to be rendered as a part of the sale, rental or lease, valued in money, whether paid in money or otherwise, without any deduction.

"Taxpayer" shall mean any person subject to or liable for any tax or payment of any tax imposed under this ordinance.

5.32.030 Imposition of Certain Non-Property Taxes. The City hereby imposes and shall collect certain non-property taxes as follows:

(A) Rental Vehicle Tax: A tax is hereby imposed at the rate of three percent (3%) on the Rental Vehicle Charge for each Rental Vehicle rented or leased within the City. The Rental Vehicle tax shall apply to and be computed on the rental of all Rental Vehicles including all credit, installment, conditional or similar rental or lease fees at the time the Rental Vehicle Charge is charged. The Rental Vehicle tax shall be collected by the owner or his authorized agent from the renter or lessee.

(B) Hotel-Motel Occupancy Tax: A tax is hereby imposed at the rate of three percent (3%) on the Room Occupancy Charge for each Hotel-Motel room or living unit rented or leased within the City. The Hotel-Motel occupancy tax shall apply to and be computed on the rental of all Hotel-Motel rooms including all credit, installment, conditional or similar rental or lease fees at the time the Room Occupancy Charge is charged. The Hotel-Motel occupancy tax shall be collected by the owner of the Hotel-Motel or his authorized agent from the renter or lessee.

(C) Liquor By-The-Drink Tax: A tax is hereby imposed at rate of two percent (2%) of the Sales Price upon each Retail Sale of Liquor By-The-Drink within the City. The tax shall apply to and be computed on all Retail Sales of Liquor By-The-Drink including credit, or similar sales at the time of the sale. The Liquor By-The-Drink tax shall be collected by the retailer from the consumer.

(D) Restaurant Food Tax: A tax is hereby imposed at rate of one percent (1%) of the Sales Price upon each Retail Sale of Restaurant Food within the City. The tax shall apply to and

be computed on all Retail Sales of Restaurant Food including credit, or similar sales at the time of the sale. The Restaurant Food tax shall be collected by the retailer from the consumer.

(E) Fractional Portion: When the Sales Price involves a fraction of a dollar, the non-property tax shall be collected on that fractional portion of the price adding thereto the tax based upon the following bracket system:

Rental Vehicle and Hotel-Motel Occupancy Taxes (3%)

$.01	to	$.24	$0.00
.25	to	.49	0.01
.50	to	.74	0.02
.75	to	.99	0.03

(Each whole dollar $0.03)

Liquor By-The-Drink Tax (2%)

$.01	to	$.33	$0.00
.34	to	.66	0.01
.67	to	.99	0.02

(Each whole dollar $0.02)

Restaurant Food Tax (1%)

$.01	to	$.49	$0.00
.50	to	.99	0.01

(Each whole dollar $0.01)

The retailer shall calculate the tax upon the entire amount of purchases of the consumer made at a particular time subject to this ordinance, and not separately upon each item purchased. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the City during the period as compensation for the work of collecting the tax.

(F) Monies Collected Held in Trust: All monies collected and/or retained under the provisions of this ordinance shall be held in trust for the City and for payment thereof to the City Clerk in the manner and at the times in this ordinance provided.

5.32.040 Duration of Taxes. The non-property taxes authorized and collected under this ordinance are hereby imposed for a duration of ~~four (4)~~ twenty (20) years from the effective date of this ordinance.

5.32.050 Purposes of Taxes. The non-property tax revenue derived from and collected under this ordinance shall be used for the following purposes:

(A) Emergency services (rapid response, life saving, traffic enforcement, training, staffing, equipment, vehicles, etc.).

(B) Maintenance, improvement and acquisition of parks.

(C) Road repair, transportation enhancements and snow removal.

(D) City promotion, visitor information, special events and economic development.

(E) Town improvements (library modernization, sidewalks, town square, etc.).

(F) Public transit and related improvements.

(G) Direct cost to administer and enforce this ordinance.

5.32.060 Creation of a Property Tax Relief Fund. There is hereby created in the office of the City Clerk a fund to be designated as the "Municipal Property Tax Relief Fund." All monies collected under this ordinance, and not otherwise budgeted by the City Council, shall be placed by the City Clerk into the Municipal Property Tax Relief Fund. All monies collected and placed into the Municipal Property Tax Relief Fund shall be used to replace City property taxes in the ensuing fiscal year.

5.32.070 Authority of City Clerk. The City Clerk is hereby authorized and empowered to administer, regulate and collect payment of all non-property taxes adopted and imposed by this ordinance. The City Clerk shall have all of the powers set forth in this ordinance together with those additional powers necessary and proper to carry out the provisions of this ordinance.

5.32.080 Permits; Issuance.

(A) Every person desiring to engage in or conduct business of renting Rental Vehicles and Hotel-Motel rooms and selling Liquor By-The-Drink and/or Restaurant Food within the City shall file with the City Clerk an application for a municipal non-property tax permit for each place of business. A separate permit is required for each place of business within the City. Every application for such a permit shall be made upon a form prescribed by the City Clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of the business or places of business, and such other information as the City Clerk may require. The application shall be signed by the owner, if he is a natural person; or in the case of an association or limited liability company, by member or partner; or in the case of a corporation, by an executive officer or other person authorized by the corporation to sign the application; or in the case of a partnership, by a partner; or in the case of any other legal entity, by an authorized person. Initial permits shall be issued upon completion of the application for each permit sought.

(B) Upon filing an application meeting the requirements set out above, the City Clerk shall issue to each applicant a permit for each place of business. A permit shall not be assignable, and shall be valid only for the person or entity in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the location for which it was issued. Issuance of a such permit may be subject to additional requirements as set forth in this ordinance.

(C) On the face of the permit shall be affixed a municipal non-property tax number which shall be used by the applicant as an identifying number of all filing, payment and correspondence with regard to the non-property tax imposed under this ordinance.

5.32.090 Method for Payment of Taxes.

(A) The taxes imposed by this ordinance shall be computed and paid for each calendar month. The taxes imposed by this ordinance are due and payable to the City Clerk on or before the twenty-fifth day of the succeeding month. The amount of tax paid shall be computed on the total dollar value of the Rental Vehicle and Room Occupancy Charges, and of the Sale Price of the Retail Sale of Liquor By-The-Drink and/or Restaurant Food. Each person required to hold a municipal non-property tax permit and number shall file a municipal non-property tax return and a copy of their Idaho State Sales Tax Return for the month at the same time the taxes imposed by this ordinance are paid to the City Clerk, unless the person has been permitted in writing by the Idaho State Tax Commission to file quarterly sales or use tax returns. Persons who have been permitted to file other than quarterly returns shall notify the City Clerk in writing and the City Clerk thereupon may require reporting of state tax returns over some other period.

(B) The first payment of taxes under this ordinance shall be due and payable together on August 25, ~~2006~~ 2010, for that period beginning July 1, ~~2006~~ 2010, and ending July 31, ~~2006~~ 2010. Thereafter all payments shall be made monthly.

(C) A municipal non-property tax return shall be filed each and every month by every person engaging in the rental or lease of Rental Vehicles and Hotel-Motel rooms and in the sale of Liquor By-The-Drink and/or sale of restaurant food, regardless of whether any tax is due. Returns shall be signed by the person required to file the return or by a duly authorized agent.

5.32.100 Audits; Deficiency Determinations.

(A) The City Clerk may order an audit of any Taxpayer under this ordinance for the purpose of ascertaining the correctness or completeness of any return or payment.

(B) If any error or omission is discovered in such audits or in any other way, the City Clerk may compute and determine the amount of tax due upon the basis of facts obtained from such information within the City Clerk's possession and assert a deficiency. One or more deficiency determinations may be made for the amount due for one or for more than one period. In making such a determination, the City Clerk may offset overpayments against amounts due. Further, such determinations shall be made for the period or periods in respect to which the person fails to make a return and shall be based upon any information which is in the City Clerk's possession.

(C) The City Clerk shall give written notice of his or her determination and the amount of the deficiency, including interest at a rate of interest per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal, from the date due, to the person from whom such deficiency amount is due. Such notice may be given personally or mailed to the person at the address furnished to the City Clerk in the non-property tax permit application.

5.32.110 Redetermination of Deficiency.

(A) Any person against whom a deficiency determination is made under this ordinance, or any person directly interested, may petition in writing for a redetermination within thirty (30) days after service upon the person of notice thereof. If the petition for redetermination is not filed within the thirty (30) day period, the determination becomes final at the expiration of the period.

(B) If a petition for redetermination is filed within the thirty (30) day period, the City Clerk shall reconsider the determination and, if the person so requests in the petition, grant the person oral hearing and give said person ten (10) days' notice of the time and place of the

hearing personally or by mail addressed to the person at the address furnished to the City Clerk in the person's application for a non-property tax permit.

5.32.120 Appeals, Interest on Deficiency.

(A) When a redetermination is made, the City Clerk shall give notice to the Taxpayer against whom the redetermination is made. Within thirty (30) days of the date upon which such notice of redetermination is mailed or served, the Taxpayer may file an appeal with the City Council or may file a complaint with the District Court for review of the City Clerk's redetermination. There shall be no right of review to the City Council nor to the District Court on the determination of taxes due made by the City Clerk unless a petition for redetermination has been timely filed. No assessment of a deficiency in respect to the tax imposed by this ordinance or proceeding to collect for its collection shall be made, begun or prosecuted until such notice has been mailed to the Taxpayer and expiration of such thirty (30) day period after notice of redetermination, nor if a protest is filed until a decision on the protest becomes final. If the Taxpayer does not protest to the City Council or file an action in District Court within the time prescribed in this section, the deficiency shall be assessed and shall become due and payable upon notice and demand from the City Clerk.

(B) Interest upon any deficiency shall be assessed at the same time as the deficiency and shall become due and payable upon notice and demand from the City Clerk and shall be collected as part of the tax at a rate per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal, from the date prescribed for payment of the tax.

5.32.130 Collections and Enforcement.

As soon as practical after a monthly municipal non-property tax return and payment is filed, the City Clerk shall examine the same, and determine the correct amount of the tax. For the purpose of ascertaining the correctness of any payment, determining the amount of tax due where none has been made, determining the liability of any person for any tax payable under this ordinance or the liability at law or in equity of any person in respect to any tax provided by this ordinance, or collecting any such liability, the City Clerk is authorized:

(A) To examine the books, papers, records or other data which may be relevant or material to the inquiry;

(B) To summon the person liable for the tax or any officer, agent or employee of such person, or any person having possession, custody or care of books of accounting containing entries relating to the business of the person liable for the tax, to appear before the City Clerk, at a time and place named in its summons to produce such books, papers, records or other data and/or give such testimony under oath as may be relevant or material to such inquiry.

5.32.140 Refunds, Limitations and Interest.

(A) If the City Clerk determines that any amount due under this ordinance has been paid more than once or has been erroneously or illegally collected or computed, the City Clerk shall set forth that fact in its records and the excess amount paid or collected may be credited on any amount due or payable to the City Clerk for non-property taxes from that person, and any balance refunded to the person by whom it was paid or to his successors, administrators or executors.

(B) No such credit or refund shall be allowed or made after one year from the time the payment was made unless before the expiration of such period a claim therefore is filed by the Taxpayer.

(C) Interest shall be allowed on the amount of such credits or refunds at a rate of interest per annum equal to the New York prime rate of interest as expressed in the Wall Street Journal from the date which such tax was paid.

(D) Appeal from the City Clerk's decision denying in part or in whole a claim for refund shall be made in accordance with the laws of the State of Idaho with regard to claims against municipalities.

5.32.150 Responsibility for Payment of Taxes.

Every person with a duty to account for or pay over any tax imposed by this ordinance on behalf of a corporation, limited liability company, partnership or other legal entity, as an officer, employee or agent of the entity, shall be personally liable for payment of such tax, plus penalties and interest.

5.32.160 Period of Limitation Upon Assessment and Collection.

(A) The amount of taxes imposed under this ordinance shall be assessed within three (3) years of the time the return upon which the tax asserted to be due was or should have been filed, whichever is later; provided, however, if a deficiency determination or assessment has been made within the prescribed time, such tax may be collected within a period of six (6) years after assessment. The running of limitations provided by this section shall be suspended for the period during which the City Clerk is prohibited from making the assessment or from collecting or proceeding in court due to a petition for redetermination or an appeal therefrom, and for thirty (30) days thereafter.

(B) In the cases of taxes due during the lifetime of a decedent, the tax shall be assessed and proceedings for collection begun with six (6) months after written request therefore (filed after the return is made) by the executor, administrator, or other fiduciary representing the estate of such decedent unless the assessment is stayed by a petition for redetermination or any appeal therefrom.

(C) In the case of a false or fraudulent return with intent to evade tax, or of a failure to file a return, the tax may be assessed, or a proceeding in court for collection of such tax may be begun without assessment, at any time within three (3) years after the date of the discovery of the facts constituting the fraud, or discovery of the failure to file.

5.32.170 Successors' Liability.

(A) If a vendor liable for any amount of tax due under this ordinance sells out his business or stocks and goods, the vendee shall make an inquiry to the City Clerk and withhold from the purchase price any amount of tax that may be due under this ordinance until such time as the vendor produces a receipt stating that no amount is due.

(B) If the purchaser of business or stock of goods fails to withhold from the purchase price, as above required, the purchaser or officer, employee or agent of the entity is personally liable for the payment of the amount required to withheld by him, which amount shall become immediately due and payable with interest as herein provided, and suit may be filed within the time limit set forth in subsection 5.32.160 (A) of this ordinance.

5.32.180 General Administration by City Clerk.

(A) The City Clerk shall enforce the provisions of this ordinance and may prescribe, adopt and enforce rules and regulations relating to its administration and enforcement. The City Clerk may employ qualified auditors for examination of Taxpayer's books and records, and shall also employ such accountants, investigators, assistants, clerks, and other personnel as are necessary for the efficient administration of this ordinance, and may delegate authority to his or her representatives to conduct hearings, or perform other duties imposed by this ordinance.

(B) Every Rental Vehicle business owner, Hotel-Motel owner, seller of Liquor By-The-Drink, and seller of Restaurant Food in this City shall keep such records, receipts, invoices, and other pertinent papers as the City Clerk may require. Every such Rental Vehicle business owner, Hotel-Motel owner, seller of Liquor By-The-Drink and seller of Restaurant Food who files tax payments required under this ordinance shall keep all such records for not less than four (4) years after making such payments unless the City Clerk in writing authorizes their destruction.

(C) The City Clerk, or any person authorized in writing by the clerk, may examine the books, papers, records and equipment of any person renting Rental Vehicles, any Hotel-Motel owner, any person selling Liquor By-The-Drink and any person selling Restaurant Food, or any person liable for any tax thereon, and may investigate the character of the business of the person in order to verify the accuracy of any return made, or if no return is made by the person, to ascertain and determine the amount required to be paid. Any persons who rent Rental Vehicles, any Hotel-Motel owners, any persons who sell Liquor By-The-Drink and any persons who sell Restaurant Food, whose pertinent records are kept outside of the City, must bring the records to the City for examination by the City Clerk upon request of the City Clerk, or by agreement with the City Clerk permit an auditor designated by the City Clerk to visit the place where the records are kept, and there audit such records.

5.32.190 Penalties.

(A) 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. Furthermore, each month in which a person fails to report, or intentionally fails to accurately compute, or intentionally fails to accurately disclose the total amount of sales or rentals or the amount of tax to be paid, as imposed under this ordinance, shall be considered a separate offense.

(B) Any person who violates any provision of this ordinance shall have his municipal non-property tax permit and tax number revoked. The City Clerk shall send written notice of revocation of the permit and tax number to the permit holder by mailing the permit certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date the notice is mailed to file a written request for appeal with the City Council, challenging the revocation. If no appeal is timely made, the revocation becomes final. Whenever a person subject to this ordinance has had a permit and tax number revoked, the City Clerk shall not reissue the permit nor issue a new permit to the person until the person places with the City Clerk a bond or other sufficient security in the amount equal to three (3) times the actual, determined or estimated average monthly amount of tax payable by such person pursuant to this ordinance.

(C) The City Clerk, whenever it is deemed necessary to insure compliance with this ordinance, may require any person subject to this ordinance to place with the City Clerk such security as the City Clerk may determine, but not in an amount greater than three (3) times the

estimated average monthly amount payable by such person pursuant to this ordinance. The amount of the security may be increased or decreased by the City Clerk at any time, subject to the limitations set forth above.

(D) Any person who violates any provision of this ordinance shall have all municipal beer license(s), and wine license(s), and retail liquor by-the-drink license(s) revoked.

(E) Any amount of tax due under this ordinance for which a person fails to report or accurately compute, shall become a lien upon the property of the Taxpayer on the date that the same becomes due, and the City may seek to enforce the lien and collect all taxes and interest due together with the reasonable costs of collection, including attorney's fees, in a court of competent jurisdiction.

(F) For the purpose of proper administration of this ordinance and to prevent evasion of non-property taxes, the burden of proving that the rental of a Rental Vehicle or a Hotel-Motel room or the Retail Sale of Liquor By-The-Drink or Restaurant Food is not subject to a non-property tax imposed by this ordinance, is upon the person who makes the sale or rental in question.

5.32.200 Penalty Charge.

Any person who is required to collect, truthfully account for and pay over any tax imposed by this ordinance and who willfully fails to collect such a tax or truthfully account for or pay over such a tax, or willfully attempts in any manner to evade or defeat such a tax or payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to five percent (5%) per month for a maximum of twenty-five percent (25%) of the amount of the tax evaded, or not collected, or not accounted for and paid over. The City Clerk shall determine and assess such penalties, and the same shall become due and payable upon notice and demand from the City Clerk. The City Clerk shall send written notice of such penalty charge to the permit holder by mailing the notice by certified mail to the address given on the permit application. The permit holder shall have ten (10) days from the date the notice is mailed to file a written request of appeal with the City Council challenging the penalty charge determination. If no appeal is timely made, the penalty charge determination becomes final.

5.32.210 Exemptions.

All transactions by the State of Idaho, otherwise subject to imposition of the taxes imposed by this ordinance, are exempt from the provisions of this 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. **EFFECTIVE DATE.** This Ordinance shall be in full force and effect on July 1, ~~2006~~ 2010, and after its passage, approval and publication according to law

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL and approved by the Mayor this ~~26th~~ day ~~of June, 2006~~.

_____

Susan McBryant, Mayor

City of Hailey

ATTEST:

_____

Mary Cone, City Clerk

SAMPLE BALLOT

SPECIAL MUNICIPAL ELECTION
CITY OF HAILEY, STATE OF IDAHO
November 3, 2009

INSTRUCTIONS: Vote on the following two questions by placing an X in the square according to the way you desire to vote on that question. If you, by mistake or accident, tear, deface, wrongly mark or otherwise mutilate this ballot, return it to the election judge and get another.

Local Option Tax

Shall the City of Hailey adopt proposed Ordinance No. 1035

Ordinance No. 1035 provides for the imposition, implementation and collection of non-property taxes for a period of twenty (20) years from its effective date, at the rate of three percent (3%) on the rental of passenger vehicles and hotel-motel room occupancy, two percent (2%) on retail sale of liquor by-the-drink, wine and beer, and one percent (1%) on the retail sale of restaurant food?

The purposes for which the revenues derived from said taxes shall be used are:

(A) Emergency services (rapid response, life saving, traffic enforcement, training, staffing, equipment, vehicles, etc.).
(B) Maintenance, improvement and acquisition of parks.
(C) Road repair, transportation enhancements and snow removal.
(D) City promotion, visitor information, special events and economic development.
(E) Town improvements (library modernization, sidewalks, town square, etc.).
(F) Public transit and related improvements.
(G) Direct cost to administer and enforce this ordinance.

☐ **YES**

☐ **NO**

AGENDA ITEM SUMMARY

& 8/24/09

DATE: 7/27/09 **DEPARTMENT:** PW - Water **DEPT. HEAD SIGNATURE:** _____

SUBJECT: Metered water rate revisions & Resolution

AUTHORITY: ☐ ID Code _____ ☐ IAR _____ ☐ City Ordinance/Code _____
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Following the council discussion on 7/20/09 the proposed rates for the metered water charges have been revised for the 51,000 – 60,000 and 61,000 – 70,000 rate per 1,000 gallons. While this will have some effect on overall revenues I anticipate it not being a large impact.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle #_____
Budget Line Item #_____ YTD Line Item Balance $_____
Estimated Hours Spent to Date: _____ Estimated Completion Date: _____
Staff Contact: Tom Hellen Phone # 788-9830 Ext 14
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IFAPPLICABLE)

___ 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:

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:
Date 8/10

council discussed - want staff to review more sophisticated alternatives to this fee schedule at some time in the future but they want to move forward w/ fees this year.

City Clerk _____

FOLLOW-UP:
*Ord./Res./Agmt./Order Originals: Record
Copies (all info.):
Instrument # _____
*Additional/Exceptional Originals to: _____
Copies (AIS only)

Draft 12-30-03

Budget Year 2009/2010

SYSTEM INCOME and EXPENSES	CURRENT BUDGET	BUDGET CHANGE	PROPOSED TOTAL
Annual Payment: Bond/Loan	$169,031		$169,031
Payment to Reserve Account			
Annual Fixed Operating Expenses	$414,267	($3,607)	$410,660
Annual Gallons Sold (in 1,000's)	753,939	(41,714)	712,225
Annual Gallons Pumped (In 1,000's)	#REF!	#REF!	#REF!
Number of Connections	3167	0	3167
Annual Variable Operating Expenses	$614,767	($46,907)	$567,860
Proposed Monthly Base Rate (zero (0) gallons)	$10.24	-$0.09	$10.15
Proposed Monthly Bond Payment	$4.45		$4.45
Base Rate per 1,000 gallons up to 30,000 gallons	$0.45	-$0.20	$0.25
Rate per 1,000 gallons, 31,000 to 40,000 gallons	$0.55	-$0.05	$0.50
Rate per 1,000 gallons, 41,000 to 50,000 gallons	$0.65	$0.10	$0.75
Rate per 1,000 gallons, 51,000 to 60,000 gallons	$0.90	$0.20	$1.10
Rate per 1,000 gallons, 61,000 to 70,000 gallons	$1.20	$0.50	$1.70
Rate per 1,000 gallons, 71,000 to 80,000 gallons	$1.50	$0.50	$2.00
Rate per 1,000 gallons, 81,000 to 90,000 gallons	$1.80	$0.45	$2.25
Rate per 1,000 gallons, 91,000 to 100,000 gallons	$2.10	$0.40	$2.50
Rate per 1,000 gallons, 101,000 to 150,000 gallons	$2.25	$0.50	$2.75
Rate per 1,000 gallons, 151,000 and above	$2.50	$0.50	$3.00
MONTHLY USEAGE (GALLONS)	MONTHLY RATE		
5,000	$12.49	($1.09)	$11.40
10,000	$14.74	($2.09)	$12.65
15,000	$16.99	($3.09)	$13.90
20,000	$19.24	($4.09)	$15.15
30,000	$23.74	($6.09)	$17.65
40,000	$29.24	($6.59)	$22.65
50,000	$35.74	($5.59)	$30.15
60,000	$44.74	($3.59)	$41.15
70,000	$56.74	$1.41	$58.15
80,000	$71.74	$6.41	$78.15
100,000	$110.74	$14.91	$125.65
200,000	$348.24	$64.91	$413.15
250,000	$473.24	$89.91	$563.15
500,000	$1,098.24	$214.91	$1,313.15
1,000,000	$2,348.24	$464.91	$2,813.15
Total Cash Requirement	$978,520	$0	$978,520
Current Revenue	$790,807	($142,858)	$647,949
Excess (Shortage) of Revenue	($187,713)	($142,858)	($330,571)
Average Monthly Water Use /Customer	19,838	(1,098)	18,741
Average Yearly Percent of Water Loss			
Annual Replacement Cost of System			

HAILEY RESOLUTION NO. 2009-__

A RESOLUTION OF THE HAILEY CITY COUNCIL APPROVING RATE ADJUSTMENTS FOR WATER AND SEWER USER FEES AND WATER AND SEWER CONNECTION FEES PURSUANT TO CHAPTER 13.04, HAILEY MUNICIPAL CODE

WHEREAS, the Mayor and the City Council of the City of Hailey have determined water conservation is a desired goal for the City of Hailey Water Department;

WHEREAS, the Mayor and the City Council of the City of Hailey have determined that establishing methods for metering water usage will assist the goal of water conservation;

WHEREAS, the Mayor and the City Council of the City of Hailey have amended Chapter 13.04 of the Hailey Municipal Code, Water and Sewer Systems, to establish procedures for determining both water and sewer user fees, and connection fees, establish new procedures and revised fees, and authorize a cross connection program;

WHEREAS, the construction and maintenance of municipal water and wastewater systems are valid proprietary functions of the City of Hailey;

WHEREAS, the mandatory connection to the municipal water and wastewater systems is a valid exercise of the police powers of the City of Hailey;

WHEREAS, the fees imposed by this resolution are segregated into separate funds and are not placed into the general fund for the City of Hailey;

WHEREAS, the connection fees imposed by this resolution are to be used for the replacement and depreciation of the water and wastewater systems, while the user fees imposed by this resolution are to be used to pay for indebtedness and general operating costs of the systems;

WHEREAS, the fees imposed by this resolution have been studied and recommended by the City Engineer and are intended to be reasonably related to the benefit conveyed to the residents of the City of Hailey;

WHEREAS, the user fees, including the meter rates, imposed by this resolution are intended to make the systems self-supporting, produce revenues for the payment of indebtedness and encourage the conservation of water;

WHEREAS, Hailey's Municipal Code Chapter 13 requires that the Hailey City Council review, and make appropriate adjustments to Hailey's water and sewer user fees, administrative fees and connection fees; and

WHEREAS, the Hailey City Council has reviewed the engineer's calculations which provide the rational basis for the establishment of water and sewer user fees and connection fees, which are established in this resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAILEY AS FOLLOWS:

Section 1. Adoption of Fees. The City Council of the City of Hailey hereby adopts the following fee schedule:

SCHEDULE OF FEES & CHARGES
WATER & WASTEWATER

1. Connection Fees.

   Water Department: Water connection fees shall be $3,693 per equivalent connection.

   Wastewater Department: Wastewater connection fees shall be $3,127 per equivalent connection.

2. Service Connection Inspection Fee.

   Water Department: The inspection fee for a new water service connection shall be $50.00.

   Wastewater Department: The inspection fee for a new wastewater service connection shall be $50.00.

3. Water Department User Base Monthly Charges.

   Water user base monthly charge shall be $14.60 per month, a set fee established by the Hailey City Council. The portion of that fee collected for bond reserve purposes shall be $4.45 per connection per month. The portion of that fee for maintenance and operation shall be $10.15 per connection per month.

4. Water Department User Monthly Charge – Non-Metered Accounts

   Water user non-metered account monthly charge shall be $46.45 per month, a set fee established by the Hailey City Council. The portion of that fee collected for bond reserve purposes shall be $4.45 per connection per month. The portion of that fee for maintenance and operation shall be $42.00 per connection per month.

5. Wastewater Department User Base Monthly Charges – Metered Accounts.

   Wastewater user monthly charges shall total $18.61 per month, a set fee established by the Hailey City Council. The portion of that fee collected for bond retirement purposes shall be $6.49 per connection per month. The portion of that fee for system maintenance and operation shall be $12.12 per connection per month.

6. Wastewater Department User Base Monthly Charges – Residential Non-Metered Accounts.

New construction residential Wastewater user monthly charges shall total $33.49 per month, a set fee established by the Hailey City Council. The portion of that fee collected for bond retirement purposes shall be $6.49 per connection per month. The portion of that fee for system maintenance and operation shall be $27.00 per connection per month.

7. Metered Charge - Water. The Water user metered charge shall be as follows:

a. Single Family Residence

Base Rate per 1,000 gallons up to 30,000 gallons	$0.25
Rate per 1,000 gallons, 31,000 to 40,000 gallons	$0.50
Rate per 1,000 gallons, 41,000 to 50,000 gallons	$0.75
Rate per 1,000 gallons, 51,000 to 60,000 gallons	$1.10
Rate per 1,000 gallons, 61,000 to 70,000 gallons	$1.70
Rate per 1,000 gallons, 71,000 to 80,000 gallons	$2.00
Rate per 1,000 gallons, 81,000 to 90,000 gallons	$2.25
Rate per 1,000 gallons, 91,000 to 100,000 gallons	$2.50
Rate per 1,000 gallons, 101,000 to 150,000 gallons	$2.75
Rate per 1,000 gallons, 151,000 and above	$3.00

b. Commercial

Base Rate per 1,000 gallons up to 30,000 gallons	$0.25
Rate per 1,000 gallons, 31,000 to 40,000 gallons	$0.50
Rate per 1,000 gallons, 41,000 to 50,000 gallons	$0.75
Rate per 1,000 gallons, 51,000 to 60,000 gallons	$1.10
Rate per 1,000 gallons, 61,000 to 70,000 gallons	$1.70
Rate per 1,000 gallons, 71,000 to 80,000 gallons	$2.00
Rate per 1,000 gallons, 81,000 to 90,000 gallons	$2.25
Rate per 1,000 gallons, 91,000 to 100,000 gallons	$2.50
Rate per 1,000 gallons, 101,000 to 150,000 gallons	$2.75
Rate per 1,000 gallons, 151,000 and above	$3.00

c. Multi-Family (Per Unit)

Base Rate per 1,000 gallons up to 30,000 gallons	$0.25
Rate per 1,000 gallons, 31,000 to 40,000 gallons	$0.50
Rate per 1,000 gallons, 41,000 to 50,000 gallons	$0.75
Rate per 1,000 gallons, 51,000 to 60,000 gallons	$1.10
Rate per 1,000 gallons, 61,000 to 70,000 gallons	$1.70
Rate per 1,000 gallons, 71,000 to 80,000 gallons	$2.00
Rate per 1,000 gallons, 81,000 to 90,000 gallons	$2.25
Rate per 1,000 gallons, 91,000 to 100,000 gallons	$2.50
Rate per 1,000 gallons, 101,000 to 150,000 gallons	$2.75
Rate per 1,000 gallons, 151,000 and above	$3.00

d. Irrigation Charge (For separate irrigation accounts):

Base Rate per 1,000 gallons up to 30,000 gallons	$0.25
Rate per 1,000 gallons, 31,000 to 40,000 gallons	$0.50
Rate per 1,000 gallons, 41,000 to 50,000 gallons	$0.75

Rate per 1,000 gallons, 51,000 to 60,000 gallons	$1.10
Rate per 1,000 gallons, 61,000 to 70,000 gallons	$1.70
Rate per 1,000 gallons, 71,000 to 80,000 gallons	$2.00
Rate per 1,000 gallons, 81,000 to 90,000 gallons	$2.25
Rate per 1,000 gallons, 91,000 to 100,000 gallons	$2.50
Rate per 1,000 gallons, 101,000 to 150,000 gallons	$2.75
Rate per 1,000 gallons, 151,000 and above	$3.00

8. Metered Charge – Wastewater. The Wastewater use metered charge shall be as follows:

a. Single Family Residence
Rate per 1,000 gallons $2.48

c. Commercial
Rate per 1,000 gallons $2.48

c. Multi-Family
Rate per 1,000 gallons $2.48

9. Reduction in Water and Wastewater User Base Charges.

Water Charges: Water user base charge for persons qualifying under Hailey Municipal Code Section 13.04.130(C) shall be $8.51 per month. The portion of that fee collected for bond reserve purposes shall be $4.45 per month and for maintenance and operation shall be $4.06 per month.

Wastewater Charges: Wastewater user base charge for persons qualifying under Hailey Municipal Code Section 13.04.130(C) shall be $12.52 per month. The portion of that fee collected for bond retirement purposes shall be $6.49 per month. The portion of that fee for system maintenance and operation shall be $6.03 per month.

10. Private Water and Wastewater System Inspection Fee.

Water Department: The inspection fee for a new private water system shall be $50.00.

Wastewater Department: The inspection fee for a new private wastewater system shall be $50.00.

11. Administrative Fees.

Discontinuance Administrative Fee – Non-payment: The Administrative fee for a discontinuance notice shall be $25.00.

Recommencement Fee – Non-payment: The Recommencement fee for recommencing a service terminated for non-payment shall be $50.00.

Owner Requested Discontinuance Fee: The fee for an owner requested discontinuance of service shall be $25.00.

Owner Requested Recommencement Fee: The fee for an owner requested recommencement of service shall be $50.00.

Water Conservation Violation Discontinuance Fee: The discontinuance fee for violating Hailey Municipal Code Section 13.08.010 shall be $50.00.

Water Conservation Violation Recommencement Fee: The recommencement fee for violating Hailey Municipal Code Section 13.08.010 shall be $50.00.

Section 2. Effective Date. The fees adopted by this Resolution shall be effective on September 25, 2009.

Passed this _____ day of August, 2009.

_____
Rick Davis, Mayor, City of Hailey

ATTEST:

_____
Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 7/27/2009 **DEPARTMENT:** Legal **DEPT. HEAD SIGNATURE:** _____

SUBJECT:

Hailey Ordinance No. 1031 – Nuisance Ordinance

AUTHORITY: ☐ ID Code _____ ☐ IAR _____ ☐ City Ordinance/Code _____
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Following the Council's review of this ordinance at your July 13 meeting, I have revised the ordinance to include suggestions from the Mayor and Council and from department heads. A memo explains the significant revisions.

If you have any questions, please contact me. Thanks.

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Casele #_____
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: (IFAPPLICABLE)

___	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, and if appropriate, make a motion to approve Ordinance No. 1031 and to conduct a first reading of the ordinance.

FOLLOW-UP REMARKS:

MEMORANDUM

TO: Mayor Rick Davis and Hailey City Council Members

FROM: Ned C. Williamson

DATE: August 10, 2009

RE: Nuisance Ordinance

I have been asked to review our Nuisance Ordinance. Sometime ago, Hailey pursued a criminal action against a property owner under our present Nuisance Ordinance. The magistrate orally opined that the language in our ordinance was vague. In particular, the court was referring to a clause that prohibited waste matter which was "unsightly and interferes with the reasonable enjoyment of property by neighbors." This language is similar to the state law which regulates nuisances.

I am suggesting that Hailey adopt language that prohibits nuisances as generally defined by state law, but include very specific examples of enumerated nuisances. I believe this approach will address the court's concerns. This approach is also used by other cities in Idaho and throughout the United States. I have incorporated and modified examples from numerous other cities.

The Council reviewed a draft of this ordinance at the July 13 meeting. I have revised the ordinance to include your suggestions. The revisions include the following:

1. A street tree definition was added.
2. Deletion of "offensive" in the section 8.04.030(2).
3. Consolidation of the vacant building language.
4. Added permissive language about the city's obligation to pursue an abatement of a nuisance.
5. Added a provision that made a nuisance an unlawful act. This provision allows Hailey to pursue a criminal action.
6. Increased the criminal penalty to a $1000 fine and 6 months in jail.

At the July 13 meeting, the Council asked for further staff review. I have again circulated a draft of this ordinance among department heads and have incorporated some of their suggestions. The primary suggestions from the department heads include the following:

1. Limit when an incomplete building can be declared a nuisance. Section 8.04.030(3) now only addresses an incomplete exterior, not an incomplete interior.
2. Building materials may now be stored during the duration of a building permit. *See Section 8.04.030(9).* Before, we limited the storage of building materials to 6 months.

3. The specific examples constituting nuisances for noxious weeds, trees and water flows were eliminated because staff felt it would be better to address these matters under existing law.
4. The language in 8.04.030(12) was modified to address only larger items. This modification would allow lawn furniture.
5. Language was added to show that other codes, such as the building, fire and zoning codes, may also be used to enforce. I added specific language that would recognize a citizen's right of private enforcement against an offending party. *See Section 8.04.090.*

Overall, the department heads have several concerns. For example, there is a concern about the cost of enforcement. Several department heads feel that the complaints may be numerous and that individuals will enlist the city to enforce private disputes. It has been my experience that enforcement is time intensive. Staff will have to develop internal procedures on handling complaints. In addition, there is a concern about the cost of compliance to the City. At a minimum, the River Street property will need to be addressed. There is also a concern about the cost of compliance for the general public, particularly in these economic times. .

If you have any questions, please contact me. Thank you.

HAILEY ORDINANCE NO. 1031

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, REPEALING CHAPTERS 8.04 AND 8.08 OF THE HAILEY MUNICIPAL CODE, AND REPLACING CHAPTER 8.04 OF THE HAILEY MUNICIPAL CODE TO PROVIDE A PURPOSE SECTION, TO PROVIDE DEFINITIONS, TO ENUMERATE SPECIFIC NUISANCES, TO ESTABLISH A NUISANCE ABATEMENT NOTICE, TO REQUIRE ABATEMENT OF A NUISANCE, TO PROVIDE AN APPEAL PROCESS, TO ALLOW THE COLLECTION OF ABATEMENT COSTS BY THE CITY, TO ESTABLISH PROHIBITED ACTS, AND TO PROVIDE A PENALTY PROVISION FOR VIOLATIONS OF CHAPTER 8.04 OF THE HAILEY MUNICIPAL CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Hailey has previously adopted Chapter 8.08 of the Hailey Municipal Code, which regulates the public nuisances;

WHEREAS, in order to promote the health, safety and welfare of the general public, the Mayor and the City Council of the City of Hailey desire to amend Title 8 of the Hailey Municipal Code by repealing Chapter 8.08 and replacing it with a new Chapter 8.04, to provide for regulation of public nuisances;

WHEREAS, the City of Hailey also desires to amend Chapter 8.08 of the Hailey Municipal Code to provide for a procedure to abate public nuisances; and

WHEREAS, the City of Hailey also desires to consolidate the Chapters 8.04 and 8.08 into a new Chapter 8.04.

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

Section 1. Chapters 8.04 and 8.08 of the Hailey Municipal Code are hereby repealed in their entirety and replaced with a new Chapter 8.04, as follows:

Chapter 8.04

HEALTH AND SAFETY

Sections:

8.04.090 Violation—Penalty

8.04.010 Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare by regulating public nuisances within the city, by providing for the abatement of such nuisances, by prohibiting those conditions that create health or safety hazards, by prohibiting those conditions which interfere with the enjoyment of public or private property, by controlling the deposit and burning of litter, and by prohibiting littering.

8.04.020 Definitions. For purposes of this Chapter 8.04, the following capitalized words and phrases shall apply as defined herein:

"Building Materials" shall mean and include lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

"Junk" shall mean all appliances or parts thereof, all parts of motor vehicles, tires, all iron or other metal, plastics, glass, paper, cardboard, rubber, lumber, wood (excepting stacked firewood), mattresses, disabled trailers or parts thereof, all of which meet one of the following requirements:

(a) Are discarded;
(b) Are unusable;
(c) Are broken; or
(d) Have not been used for their primary and original purpose for a period of six months.

"Garbage" includes all putrescible waste, except sewage and body waste, including waste from accumulated animal food or vegetable matter, and including waste that attends the preparation, use, cooking, dealing in or storing meat, fish, fowl, fruit and vegetables that shall include all of such wastes or accumulations of vegetable matter of residences, restaurants, hotels and places where food is prepared for human consumption. Garbage shall not include recognized industrial by-products.

"Garbage Container" shall mean any and all containers and cans used for the storage and/or collection of waste, Refuse, Garbage and/or Rubbish.

"Nuisance" shall be considered a public nuisance and shall mean any condition or use of property which a) injures or endangers the comfort, health or safety of others, b) is indecent, or offensive to the senses, c) obstructs the free use of property, so as to interfere with the comfortable enjoyment of life or property, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, stream, canal, or basin, or any public park, square, street, alley, sidewalk or highway, or d) is enumerated to be a Nuisance by Section 8.04.030 of the Hailey Municipal Code, or by any other state or federal law.

"Owner" and "Occupant," wherever used in this chapter, may be used interchangeably, and shall mean every person in possession, charge or in control of any dwelling, flat, roominghouse, or any eating place, shop, place of business, manufacturing or business establishment where Garbage or other Refuse is created or accumulated.

"Refuse" shall mean solid wastes, including Garbage and Rubbish.

"Rubbish" shall mean Refuse other than Garbage, tin cans, bottles, leaves, weeds and cuttings from trees, lawns, shrubs, and gardens or other waste materials produced in the normal course of doing business, or everyday living. Rubbish shall not include recognizable industrial by-products.

"Street Tree" shall mean any tree, shrub, or other woody vegetation on lands within City of Hailey street rights-of-way.

"Waste" means unwanted solid, liquid, or gaseous materials.

8.04.030 Nuisances Enumerated. Without limitation of the generality of the definition of Nuisance, the following acts, omissions, conditions and things are declared to be and constitute a Nuisance:

(1) Storing or accumulating, or permitting the storage or accumulation, of Junk on any premises where the Junk is exposed to view from any public place.

(2) The accumulation, or permitting the accumulation of, tin cans, bottles, trash, litter, Waste or Refuse of any nature on any premises, or any dangerous accumulation of weeds, trash, dirt, filth, waste shrubs, lawn or yard trimmings, except in Garbage Containers maintained for regular collection. Regularly maintained compost piles shall not be considered a Nuisance.

(3) Permitting the existence of i) any dilapidated, abandoned or partially destroyed building or structure, or ii) any unused building or structure which is not properly secured from entry, or failing to materially complete the exterior of any building or structure commenced and left unfinished for a period of six (6) months or more.

(4) Storing, or permitting to be stored, any toxic, radioactive, caustic, flammable, explosive or other dangerous or hazardous substances, except when stored in compliance with the requirements of all regulatory agencies having jurisdiction.

(5) Permitting the existence of any putrid, unsound or unwholesome bones, meat, hides, or skins, or the whole or any part of any dead animal, fish or fowl.

(6) Privies, vaults, cesspools, sumps, pits, excavations or like places which are not securely protected, or which are foul or malodorous.

(7) Leaving or permitting to remain outside of any dwelling, building, or other structure, or within any unoccupied or abandoned building, dwelling, or other structure, under the control of any person, and in a place accessible to the public, any abandoned, unattended or discarded icebox, freezer, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be released from the inside, without first removing such door or lid, snap lock or other locking device from such icebox, freezer, refrigerator or container.

(8) Any unguarded or abandoned pit, well or hole dangerous to life or of more than two feet (2') in depth on any unenclosed lot, without substantial covering, protection or fencing.

(9) The accumulation, or permitting the accumulation, of Building Materials or objects of any nature where the same endangers property or safety, or constitutes a fire hazard, or where the Building Materials are exposed to view from any public place before or after the duration of a valid building permit.

(10) The existence of any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen,

decayed or otherwise dilapidated or unsafe condition.
(11) The existence or maintenance on any premises of a storage area, junkyard or dumping ground for the wrecking or disassembling of automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind, or for the storing or leaving of worn out, wrecked, inoperative or abandoned automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind or of any major parts thereof; provided, however that an automobile wrecking yard or other junkyard, or storage area for machinery or equipment where the same are permitted by the city zoning regulations or where the same are being used by contractors or builders or by other persons during the construction of a project at the site is not a Nuisance.
(12) Visible vehicle tires not mounted on a vehicle, vehicle bodies or parts, bed mattresses or springs, water heaters or other large household appliances.
(13) Animal manure in any quantity which is not securely protected from insects and the elements, or which is kept or handled in violation of any other ordinance of the city; provided, however, animal manure may be used on a property in such a manner and for such purposes as are compatible with customary methods of good husbandry.
(14) Any loud and unnecessary noises, as enumerated in Section 9.04.030 of the Hailey Municipal Code, as amended.
(15) All other uses or structures which are declared to be Nuisances by city ordinance, or building, fire or life safety codes.

8.04.040 Nuisance Abatement Notice.

A. If it is determined that a Nuisance exists on any lot, place or area, or any street, sidewalk or public right-of-way abutting the same, the city shall cause a notice to be issued to abate such Nuisance. Such notice shall contain a description of the property in terms reasonably sufficient to identify the location of the Nuisance, describe the Nuisance in terms reasonably sufficient to identify the same, direct abatement of the Nuisance, and specify the penalty provisions and appeal process as herein provided.

B. The abatement notice may be served in the following manner:

1. By personal service on the Owner of the lot, place or area, if the Owner lives within the city, and by personal service on the Occupant or person in charge or control of the property, if such person can be identified; or,

2. If the Owner does not live within the city, by registered mail to the Owner at the address shown on the last available assessment roll, or as otherwise known, and, by personal service on the Occupant or person in charge or control of the property, if such person can be identified; or

3. Should the Owner not be known or have an available address, the posting at a conspicuous place on the land, on abutting public right-of-way, and the publication of an advertisement at least once a week, for a period of two weeks, in a newspaper of general circulation, and by personal service on the Occupant or person in charge or control of the property, if such person can be identified. The newspaper advertisement shall be a general notice that the property has been posted and shall contain a general statement of the effect of such posting.

8.04.050 Abatement Required. It shall be the duty of the Owner, or person occupying or controlling any lot, place or area in the city which has been declared a Nuisance as provided herein, within fifteen (15) days of posting, mailing or personal service of the Nuisance abatement notice to remove the Nuisance. Upon the failure, neglect or refusal of any Owner or Occupant so notified to remove the Nuisance, the city may cause legal action to be taken.

8.04.060 Appeal. Within fifteen (15) days from the date of posting, mailing or personal service of the required Nuisance abatement notice to the Owner or person occupying or controlling such lots or areas affected, such Owner or persons may appeal to the city council. Such appeals shall be in writing and shall be filed with the city clerk. At the time of filing an appeal, the appellant shall pay a fee for the appeal as established by resolution. At the regular meeting of the city council, not less than ten (10) days nor more than thirty (30) days thereafter, the city council shall proceed to hear and pass upon such appeal and the decision of the city council thereupon shall be final and conclusive.

8.04.070 Abatement by City – Costs. Upon the failure, neglect or refusal of any Owner or Occupant so notified to remove the Nuisance within the time specified herein, the city may proceed with the removal work specified in the notice for removal of the Nuisance, and the cost of the work shall be paid by the Owner or Occupant or other person in control of the property. The expenses of removal by the city of any Nuisance found under the provisions of this chapter shall constitute a lien upon the property. The city may, at its option, institute a civil action for the removal and the abatement of such Nuisance, or may institute a criminal action under this Chapter 8.04.

8.04.080 Prohibited Acts.

A. It is unlawful for an Owner or Occupant to fail, neglect or refuse to remove a Nuisance from a property within the City of Hailey within the time set forth in an abatement notice served upon the Owner or Occupant in accordance with Section 8.04.040(B), above.

B. It is unlawful for any person to throw or deposit, or cause to be thrown or deposited upon any public street, alley, highway, ground, sidewalk, or any private vacant lot within the City of Hailey, any Refuse or Waste.

C. It is unlawful for any person to burn or cause to be burned on any public street or alley within the City of Hailey any Refuse or Waste.

C. It is unlawful for any person to dump, deposit or place any Garbage, Refuse, Waste or Rubbish on private property or in any Garbage Container within the City of Hailey without the authorization of the Owner or Occupant.

8.04.090 Violation–Penalty. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and shall, upon conviction, be fined not more than one thousand dollars ($1000.00) or imprisoned in the county jail for a period of not more than six (6) months, or by both such fine and imprisonment. The rights and remedies provided by this ordinance are cumulative and the use of any one right or remedy shall not preclude the City of Hailey from pursuing any or all other remedies the city may have by law, statute, ordinance or otherwise. This ordinance does not preclude the right of a private party to seek private enforcement of this

ordinance against a party violating this Ordinance, but does not provide any private right of enforcement against the city for failure to enforce the provisions of this ordinance.

Section 2. 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. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 4. 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 _____, 2009.

_____
Richard L. Davis, Mayor, City of Hailey

Attest:

_____
Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: August 24, 2009 **DEPARTMENT:** Planning **DEPT. HEAD SIGNATURE:** BR

SUBJECT: Second Reading Ordinance 1031

AUTHORITY: ☐ ID Code _____ ☐ IAR _____ ☐ City Ordinance/Code _____
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On August 10, 2009 the Council held a public hearing and first reading of the amendment to Section 4.13.8, Lot Line Vacations, to better make the connection to Section 13.6, Expansion of Nonconforming Buildings and to clarify when a lot line vacation is required.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Casele #_____
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: (IFAPPLICABLE)

☐	City Administrator	☐	Library	☐	Safety Committee
☐	City Attorney	☐	Mayor	☐	Streets
☐	City Clerk	☐	Planning	☐	Treasurer
☐	Building	☐	Police	☐	_____
☐	Engineer	☐	Public Works, Parks	☐	_____
☐	Fire Dept.	☐	P & Z Commission	☐	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct the second reading of Ordinance 1031

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:
Date _____

City Clerk _____

FOLLOW-UP:
*Ord./Res./Agmt./Order Originals: Record
Copies (all info.):
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

HAILEY ORDINANCE NO 1031

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 4.13.8, TO CLARIFY WHEN LOT LINE VACATIONS ARE REQUIRED; 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, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform to the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services;

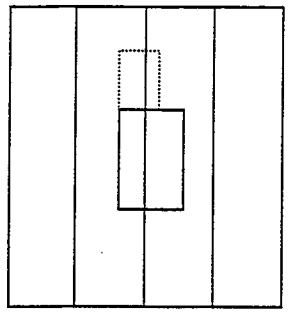
WHEREAS, the proposed uses are compatible with the surrounding area; and

WHEREAS, the amendment will be in accordance with the safety and welfare of the general public.

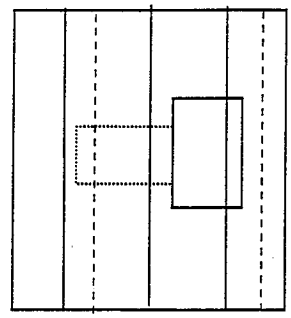
NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF HAILEY, IDAHO, AS FOLLOWS:

Section 1. Section 4.13.8. Lot Line Vacations, of the Hailey Zoning Ordinance No. 532, is hereby amended by the deletion of the stricken language and the addition of the underlined language as follows:

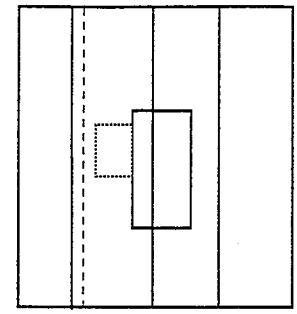
If a parcel in single ownership consists of two (2) or more Original Townsite lots, or a combination of lot(s) and portions of lot(s), ~~the~~ each internal Original Townsite lot line(s) ~~underneath or located within a required setback of proposed and existing buildings~~ shall be vacated prior to the issuance of a ~~Building Permit~~ certificate of occupancy if either of the following criteria applies: ~~for any new building~~1) a proposed new building or addition increases the degree of nonconformity or creates a new nonconformity with regard to setbacks, measured from the nearest adjacent Original Townsite lot line, not from the parcel boundary of multiple Original Townsite lots held in single ownership or 2) lot lines, which a building is not currently built on, are located underneath a proposed new building or addition.



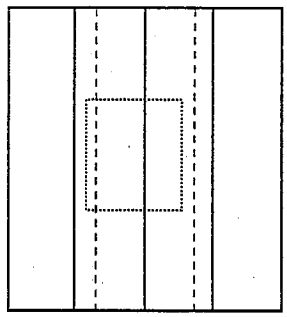
No lot line vacation is required.



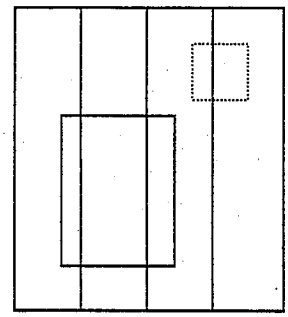
Both lot lines underlying the existing and new buildings and the lot line nearest to the new structure must be vacated when a new structure is within the required side yard setback or is built over a lot line, which was not previously built over.



No lot line vacation is required.



Both the underlying lot line and the lot line nearest to the new building must be vacated when a new structure is within the required side yard setback or built over a lot line.



The underlying lot line must be vacated for the new building.

New construction

Setback

Existing building

Section 3. 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 4. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 5. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2009.

_____
Richard L. Davis, Mayor, City of Hailey

Attest:

_____
Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: August 24, 2009 **DEPARTMENT:** Planning **DEPT. HEAD SIGNATURE:** BR

SUBJECT: Second Reading Ordinance 1032

AUTHORITY: ☐ ID Code _____ ☐ IAR _____ ☐ City Ordinance/Code _____
(IFAPPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

On August 10, 2009 the Council held a public hearing and first reading of the amendment to the Planning and Zoning fee schedule.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Casele #_____
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: (IFAPPLICABLE)

☐	City Administrator	☐	Library	☐	Safety Committee
☐	City Attorney	☐	Mayor	☐	Streets
☐	City Clerk	☐	Planning	☐	Treasurer
☐	Building	☐	Police	☐	_____
☐	Engineer	☐	Public Works, Parks	☐	_____
☐	Fire Dept.	☐	P & Z Commission	☐	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct the second reading of Ordinance 1032

ADMINISTRATIVE COMMENTS/APPROVAL:

City Administrator _____ Dept. Head Attend Meeting (circle one) Yes No

ACTION OF THE CITY COUNCIL:
Date _____

City Clerk _____

FOLLOW-UP:
*Ord./Res./Agmt./Order Originals: Record
Copies (all info.):
Instrument # _____

*Additional/Exceptional Originals to: _____
Copies (AIS only)

CITY OF HAILEY ORDINANCE NO. 1032

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, ESTABLISHING A REVISED FEE SCHEDULE THAT ADDS NEW FEES FOR APPLICATIONS FOR DESIGN REVIEW OF PROJECTS WITH NO SUBSTANTIAL IMPACT, MODIFICATIONS TO PROJECTS WHICH HAVE RECEIVED DESIGN REVIEW APPROVAL, AND RECOMMENDATIONS FOR DESIGN REVIEW EXEMPTION; THAT REVISES THE FEE FOR DUPLEXES IN THE TOWNSITE OVERLAY DISTRICT AND ACCESSORY STRUCTURES; THAT ELIMINATES THE SEPARATE FEE FOR REZONES WITH DEVELOPMENT AGREEMENTS, AND CONSOLIDATES THE TEXT AMENDMENT FEES; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has adopted Ordinance No. 961 setting forth requirements for Design Review of single family dwellings, accessory structures, and duplexes in the Townsite Overlay District;

WHEREAS, the Hailey City Council has adopted Ordinance No. 1009 setting forth procedures for projects with no substantial impact, modifications to projects that have received design review approval, and recommendation for design review exemption;

WHEREAS, the City Council has determined that it is necessary for the City to set forth a fee charged in connection with the submission and handling these Design Review applications;

WHEREAS, the Hailey Ordinance No. 962 presently establishes fees for various applications;

WHEREAS, the Hailey City Council finds that the fees adopted by this Ordinance are reasonably related to and do not exceed the actual cost of the service provided by the City; and

WHEREAS, new fees or fee increases above 5% have been duly noticed and discussed in a public hearing pursuant to Idaho Code Section 63-1311A.

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

SECTION 1. The Fee Schedule attached hereto as Exhibit "A" and incorporated herein by this reference as though fully set forth is hereby adopted.

SECTION 2. Any and all portions of Hailey Ordinance No. 962 and any other ordinances, or parts thereof, conflicting with the revised Fee Schedule established by this Ordinance are hereby repealed.

SECTION 3. 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 _____, 2009.

ATTEST:

_____ _____

Mary Cone, City Clerk Richard L Davis, Mayor

Publish: Idaho Mountain Express _____, 2009

"EXHIBIT A" TO ORDINANCE NO. ___ - FEE SCHEDULE*

Annexation	$1250 + $15/developable acre** + additional fees for services rendered (including but not limited to fees for City Attorney, City Engineer, and Staff) to be negotiated before application is certified as complete
Appeal	$255
Child Care Conditional Use	$50
Comprehensive Plan Amendment	$400
Conditional Use Permit	$400
Design Review	$450 + $25/1000 gross square feet
Design Review – Single Family Dwelling or Accessory Structure or Duplex in Townsite Overlay	$250
Design Review – ~~Duplex~~ Accessory Structure ~~in Townsite Overlay~~ (not associated with a residential Principle Use)	~~$300~~ 250
Design Review - Modifications to Projects that have Received Design Review Approval (determined by the Administrator not to be minor)	$50
Design Review - No Substantial Impact	$75
Design Review - Recommendation for Exemption	$30
Fence Permit	$30
Floodplain Development Permit	$400
Lot Line Shift	$240
Miscellaneous	$55
Preapplication Meeting	$50/hour/department head for meetings and/or phone calls exceeding 1 hour
PUD (in addition to other app)	$500 + additional fees for services rendered by City Attorney (development agreement)
Rezone	$400 + additional fees for services rendered by City Attorney associated with a development agreement)
~~Rezone w/Development Agreement~~	~~$500 + additional fees for services rendered by City Attorney (development agreement)~~

Sign Permit	$30
Sign: Inspection fee for portable sign in ROW	$50
Sign: Annual application renewal and inspection fee for portable sign in ROW	$50
Short Plat Subdivision	$300/lot, sublot, or unit; not to exceed $1200
Subdivision	$1,250 + $55/lot, sublot, or unit + additional fees for services rendered by City Attorney (development agreement)
Subdivision Ordinance and Zoning Ordinance Text Amendment	$400
Vacation	$400
Variance	$350
Wireless Permit	$350
Wireless Master Development Plan	$250
Wireless Conditional Use Permit	$600
Wireless Annual Renewal	$60
~~Zoning Code Text Amendment~~	~~$400~~
In Lieu Parking Contribution	$9,975 / space
*All Fees: Plus actual cost of noticing (newspaper and/or mail), recording fees, and all other direct costs, not including staff time except where otherwise provided. ** Developable acre: lying below 25% slope line and not within proposed park/green space	