

HAILEY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 5.02 OF THE HAILEY MUNICIPAL CODE ENTITLED LICENSES GENERALLY BY AMENDING SECTION 5.02.040 TO UPDATE STANDARDS; BY AMENDING SECTION 5.02.050 TO CLARIFY LICENSE RENEWAL PROCEDURES; AMENDING CHAPTER 5.03 OF THE HAILEY MUNICIPAL CODE ENTITLED CHILD CARE FACILITY LICENSING BY AMENDING SECTION 5.03.040 TO CLARIFY APPLICATION PROCEDURE; BY AMENDING SECTION 5.03.050 TO CLARIFY TRAINING REQUIREMENTS; BY AMENDING SECTION 5.03.070 TO CLARIFY FEES; AMENDING CHAPTER 5.04 OF THE HAILEY MUNICIPAL CODE ENTITLED LIQUOR SALES AND REGULATIONS BY AMENDING SECTION 5.04.030 TO UPDATE PROCEDURES; BY AMENDING SECTION 5.04.060 TO UPDATE PROCEDURES; AMENDING CHAPTER 5.08 OF THE HAILEY MUNICIPAL CODE ENTITLED BEER SALES AND REGULATIONS BY AMENDING SECTION 5.08.020 TO UPDATE PROCEDURES; BY ADDING A NEW SECTION 5.08.040 TO CLARIFY EXPIRATION AND RENEWAL PROCEDURES; AMENDING CHAPTER 5.12 OF THE HAILEY MUNICIPAL CODE ENTITLED WINE SALES AND REGULATIONS BY AMENDING SECTION 5.12.050 TO UPDATE PROCEDURES; BY AMENDING SECTION 5.12.060 TO CLARIFY PROCEDURES; BY ADDING A NEW SECTION 5.12.080 TO CLARIFY EXPIRATION AND RENEWAL PROCEDURES; BY AMENDING SECTION 5.12.090 TO UPDATE CONSUMPTION ON PREMISES REGULATION; AMENDING CHAPTER 5.13 OF THE HAILEY MUNICIPAL CODE ENTITLED BEVERAGE CATERING PERMITS BY AMENDING SECTION 5.13.020 TO CLARIFY PROCEDURES; BY AMENDING SECTION 5.13.030 TO CLARIFY PROCEDURES; BY AMENDING SECTION 5.13.040 TO CLARIFY PROCEDURES; BY PROVIDING FOR A REPEALER CLAUSE; BY PROVIDING FOR A SEVERABILITY CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and Hailey City Council have pledged to protect the general health, safety and welfare of the public;

WHEREAS, the Mayor and Hailey City Council are interested in the economic health and vitality of the community and its citizens.

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

**Section 1.** Section 5.02.040 of the Hailey Municipal Code is amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.02.040 Standards for issuance of license. A license shall be issued by the city clerk only to applicants who meet the following requirements:

A. Compliance with Building and Fire Regulations. The business and premises for which the license application is made has not been cited by the building or fire departments for a violation of the adopted International Building or Fire Code, or, having been cited for such a

violation, is in the process of correcting the violation to the satisfaction of the building official or fire chief. The applicant shall specify what steps are being taken to correct the violation. Businesses relocating in new structures or remodeled structures and all new businesses opening for the first time shall ~~present with the required application~~ have obtained a certificate of occupancy furnished by the city building inspector establishing that the premises are not in violation of the applicable International Building Code and applicable International Fire Code.

B. Compliance with Zoning Requirements. The business and premises for which the application is made are not in violation of any zoning regulations.

C. Water & Sewer Connection Required. The business and premises for which the application is made shall be connected to city water and sewer systems, and shall not be in violation of any section of Chapter 13 of the Hailey Municipal Code.

D. The business and premise for which the application is made shall not be placed upon or encroach upon any public street or place, with the exceptions of sidewalks. Encroachments upon private parking or yard areas, public sidewalks or other areas outside of a business structure connected to city water and sewer systems shall be shown clearly upon the business license application and shall not restrict a clear six-foot lane for pedestrian traffic. The encroachment must meet all other applicable rules, regulations, and ordinances of the city of Hailey.

E. The intended use of any business areas outside of a business structure connected to city water and sewer systems, whether upon public sidewalks or private parking and yard areas shall be shown upon the application, and shall be restricted to the same use and business activity as is conducted within the business structure connected to city water and sewer systems.

**Section 2.** Section 5.02.050 of the Hailey Municipal Code is amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.02.050 ~~License fee–Renewal.~~ A non-refundable business license fee for the administrative costs of processing applications shall be paid by each applicant at the time of making application for any business license. The license shall be issued for ~~the calendar year for which the application is submitted, and there shall be no pro-ration of the application fee one year from the date of application approval.~~ All business licenses required hereunder shall be renewed annually for each year or portion of the year in which the business or occupation subject to this chapter remains in operation. There shall be a pro-ration of fees for licenses renewed for a portion of the year, proportional to the amount of months the business plans to remain in operation. In no case will refunds of renewal fees be given. The amount of the fees provided for herein shall be set by resolution of the city council. Any agency of the United States government and political subdivisions of the state of Idaho, including counties, school districts, sewer districts, fire districts, and other special districts, and not-for-profit businesses shall be exempt from payment of the license fee required by Section 5.02.050, but shall be required to obtain a license and annual renewals of said license, and shall be subject to all other provisions of this chapter.

**Section 3.** Section 5.03.040 of the Hailey Municipal Code is amended by the deletion of the stricken language and by the addition of the underlined language, as follows:

5.03.040 Application required. A. An applicant for a Hailey child care license shall complete an application form provided by the city which shall include, but may not be

limited to, a current list of all owners, directors, staff, and all individuals twelve years of age or older residing at the premises, and any necessary authorizations or releases. The applicant must designate one person as director. Failure to provide the necessary information, releases or authorizations shall be grounds to deny a license or application. When the applicant for such a license is a corporation, such corporation must demonstrate authorization to do business in the state of Idaho.

B. The applicant will not be required to hold a separate Hailey business license, but will otherwise be subject to the provisions of ~~The applicant shall also complete an application for a business license as set forth in Hailey Municipal Code Chapter 5.02, and shall be subject to the provisions of Chapter 5.02,~~ including compliance with applicable Hailey building and fire codes. ~~This license shall be renewed every year as required by Chapter 5.02.~~

**Section 4.** Section 5.03.050 of the Hailey Municipal Code is amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.03.050 Certification. A. Whether the applicant for a Hailey child care license is a group child care home, child care center, or family child day care home, the applicant must submit the following certification at the time of application:

1. A “basic day care license” issued by the Idaho Department of Health and Welfare as provided in Idaho Code Section 39-1101, et seq., which shall include, but which may not be limited to, the following:

a. Documentation of fire inspection of the child care facility, conducted by a certified fire inspector of the Hailey fire department, establishing compliance with the standards specified in Idaho Code Section 39-1101, et seq.; and

b. Proof of a health inspection of the child care facility, conducted by the district health department establishing compliance with the minimum standards specified in Idaho Code Section 39-1101, et seq.

c. Proof of a criminal history check conducted by the Department of Health and Welfare as set forth in Idaho Code Section 39-1101, et seq., on owners, operators, directors, staff, and volunteers of the child care facility who have contact with children, and on all other individuals twelve years of age or older who have unsupervised direct contact with children in a child care facility.

2. Proof that all staff at the child care facility ~~have obtained a certificate~~ hold current certification of completion of both infant/pediatric first aid and infant/pediatric CPR, including rescue breathing. In addition to such first aid and CPR, proof of at least four hours of annual additional child care training by all staff of the child care facility. The training must be from the Idaho State Training & Registry System (Idaho STARS), an Idaho STARS-approved provider, or an Idaho STARS-approved online program such as childcaretraining.org; or another suitable training source of equal or better quality.

**Section 5.** Section 5.03.070 of the Hailey Municipal Code is amended by the addition of the underlined language, as follows:

5.03.070 Fees. The city council of the city of Hailey shall establish fees to be assessed for the issuance and renewal of a Hailey child care license. Such fees shall be collected at the time of application and renewal.

**Section 6.** Section 5.04.030 of the Hailey Municipal Code is amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.04.030 License-Fee-Period. All licenses shall be granted by the mayor and city council for a period of one year beginning ~~January 1<sup>st</sup>~~ September 1<sup>st</sup>, and ending ~~January 1<sup>st</sup>~~ August 31<sup>st</sup> of the following year. A full year's license fee shall be collected for licenses granted between ~~January 1<sup>st</sup>~~ September 1<sup>st</sup> and ~~September 30<sup>th</sup>~~ May 31<sup>st</sup>. License fees shall be set in accordance with Idaho Code Sections 23-904 and 23-916. No license shall be issued to a retailer who has not obtained a county license from the Blaine County board of county commissioners. For the period between ~~October 1<sup>st</sup>~~ June 1<sup>st</sup> and ~~January 1<sup>st</sup>~~ September 1<sup>st</sup> of the following year, the license fee shall be forty percent of the annual license fee. The city council shall grant or deny the application within thirty days of the time it is filed with the city clerk. Prior to any revocation or suspension, the licensee shall be afforded a hearing according to Idaho Code Section 23-933 (B). Whenever the mayor and city council deny an application, they shall specify in writing:

- A. The statutes, ordinances and standards used in evaluating the application;
- B. The reasons for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof. In all cases where the city council is considering application for licenses, transfers, or renewals thereof, a transcribeable verbatim record of the proceeding shall be made. If the application for a license, transfer or renewal is denied, a transcribeable verbatim record of the proceedings shall be kept for a period of not less than six months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

**Section 7.** Section 5.04.060 of the Hailey Municipal Code is amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.04.060 Form of license-Expiration. A. Every license issued under this chapter shall set forth the name of the person to whom issued, the location by street and number, or other definite designation, of the premises; if issued to a partnership, the names of the persons constituting the partnership shall be set forth. If issued to a corporation or association, the names of the principal officers and the governing board shall be set forth. An application to transfer any license issued pursuant to Chapter 9, Title 23, Idaho Code, shall be made to the city. Upon receipt of such an application, the city shall make the same investigation and determinations with respect to the transferee as are required by this chapter, and if the city shall determine that all of the conditions required of a licensee under this chapter, have been met by the proposed transferee, then the license shall be endorsed over to the proposed transferee by said licensee for the remainder of the period for which such license has been issued and the city shall issue a license to the transferee.

B. Every license issued under the provisions of this chapter is separate and distinct and no person except the licensee therein named shall exercise any of the privileges granted there under and all licenses are applicable only to the premises in respect to which issued.

C. All licenses shall expire at one a.m. on ~~January 1<sup>st</sup>~~ the following September 1<sup>st</sup> of the following year and shall be subject to renewal upon proper application. Renewal applications for liquor by the drink licenses accompanied by the required fee must be filed with the city on or before ~~January 1<sup>st</sup>~~ the following September 1<sup>st</sup> of the following year, provided, however, any licensee holding a valid license who fails to file an application for renewal of his current license on or before ~~January 1<sup>st</sup>~~ the following September 1<sup>st</sup> of the following year shall have a grace period of an additional thirty-one days in which to file an application for renewal of his license and during which time he shall not be permitted to sell and dispense liquor by the drink at retail.

D. No person shall be granted more than one license for any city for any year; and no partnership association or corporation holding a license under the provisions of this chapter shall have as a member, officer or stockholder any person who has any financial interest of any kind in, or is a member of, another partnership or association or an officer of another corporation holding a license for the same year; provided that this section shall not prevent any person, firm or corporation, owning two or more buildings on connected property in the city from making application for and receiving licenses permitting the sale of liquor by the drink in such building.

**Section 8.** Section 5.08.020 of the Hailey Municipal Code is amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.08.020 License-Fee-Period. All licenses shall be granted by the mayor and council for a period of one year beginning ~~January 1<sup>st</sup>~~ September 1<sup>st</sup> and ending ~~December 31<sup>st</sup>~~ August 31<sup>st</sup>. A full year's license fee shall be collected for licenses granted between ~~January 1<sup>st</sup>~~ September 1<sup>st</sup> and ~~September 30<sup>th</sup>~~ May 31<sup>st</sup>. For the period between ~~October 1<sup>st</sup>~~ June 1<sup>st</sup> and ~~December 31<sup>st</sup>~~ September 1<sup>st</sup>, the license fee shall be forty percent of the annual license fee. The city council shall grant or deny the application within thirty days of the time it is file with the city clerk. Prior to any revocation or suspension, the licensee shall be afforded a hearing according to Section 23-1016 of the Idaho Code. Whenever the mayor and city council denies an application, they shall specify in writing:

- A. The statutes, ordinances and standards used in evaluating the application;
- B. The reasons for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

In all cases where the city council is considering applications for licenses, transfers, or renewals thereof, a transcribable verbatim record of the proceeding shall be made. If the applicant for a license, transfer or renewal is denied, a transcribable verbatim record of the proceedings shall be kept for a period of not less than six months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law.

**Section 9.** Chapter 5.08 of the Hailey Municipal Code is hereby amended by adding a new Section 5.08.040, License – Expiration and Renewal, in its entirety, as follows:

5.08.040 License-Expiration and Renewal. All licenses shall expire at one a.m. on the following September 1<sup>st</sup>, and shall be subject to annual renewal upon proper application.

Renewal applications for licenses accompanied by the required fee must be filed with the city on or before the following September 1<sup>st</sup>, provided, however, any licensee holding a valid license who fails to file an application for renewal of the current license on or before the following September 1<sup>st</sup> shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell beer at retail during the thirty-one (31) day extended time period unless and until the license is renewed.

**Section 10.** Chapter 5.08.040 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.08.040050 Violation–Penalty. Any person violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine of not exceeding one hundred dollars and costs, and in case of default in the payment of such fine and costs shall be subject to imprisonment until such fine and costs are paid, as provided by law.

**Section 11.** Chapter 5.12.050 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.12.050 License–Fee–Period. All licenses shall be granted by the mayor and council for a period of one year beginning January September 1<sup>st</sup> and ending December August 31<sup>st</sup>. A full year's license fee shall be collected for licenses granted between January September 1<sup>st</sup> and September 30<sup>th</sup> May 31<sup>st</sup>. For the period between October June 1<sup>st</sup> and December August 31<sup>st</sup>, the license fee shall be forty percent of the annual license fee. The city council shall grant or deny the application within thirty days of the time it is filed with the city clerk. Prior to any revocation or suspension, the licensee shall be afforded a hearing according to Section 23-1016 of the Idaho Code. Whenever the mayor and city council denies an application, they shall specify in writing:

- A. The statutes, ordinances and standards used in evaluating the application;
- B. The reasons for the denial; and
- C. The actions, if any, that the applicant could take to obtain the license, transfer or renewal thereof.

In all cases where the city council is considering applications for licenses, transfers, or renewals thereof, a transcribeable verbatim record of the proceeding shall be made. If the applicant for a license, transfer or renewal is denied, a transcribeable verbatim record of the proceedings shall be kept for a period of not less than six months after a final decision on the matter. Upon written request and within the time period provided for retention of the record, any person may have the record transcribed at his expense. The city council shall also provide for the keeping of the minutes of the proceedings. Minutes shall be retained indefinitely or as otherwise provided by law. (Ord. 490 §1 (part), 1984; Ord. 476 (part), 1983; Ord. 310 §5, 1971)

**Section 12.** Chapter 5.12.060 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.12.060 Issuance of license. Upon filing the application for a license and production of evidence as required by Section 5.12.040 of this chapter as to the qualifications of the applicant and by the payment of the required license fee, the city will issue to the applicant a

license to sell wine at retail within the municipality ~~for such calendar year or the remainder thereof~~ under the license period set forth in 5.12.050 above.

**Section 13.** Chapter 5.12.080 of the Hailey Municipal Code is hereby amended by replacing Section 5.12.080 in its entirety with a new Section 5.12.080, as follows:

~~5.12.080 License restrictions. The assignment or transfer of a wine license shall be the same as provided by city ordinance providing for the assignment or transfer of a beer license.~~

5.12.080 License-Expiration and Renewal. All licenses shall expire at one a.m. on the following September 1<sup>st</sup> and shall be subject to annual renewal upon proper application. Renewal applications for licenses accompanied by the required fee must be filed with the city on or before the following September 1<sup>st</sup>, provided, however, any licensee holding a valid license who fails to file an application for renewal of the current license on or before the following September 1<sup>st</sup> shall have a grace period of an additional thirty-one (31) days in which to file an application for renewal of the license. The licensee shall not be permitted to sell beer at retail during the thirty-one (31) day extended time period unless and until the license is renewed.

**Section 14.** Chapter 5.12.090 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

~~5.12.090 Consumption on premises. Retailers who do not possess a valid license for the retail sale of liquor by the drink shall not permit consumption of wine on the licensed premises and may sell the wine only in its original unbroken, sealed container. Wine sold for consumption on the retailer's premises may be sold only during hours that liquor by the drink may be sold pursuant to the laws of the state. Wine sold by the retailer for consumption off the premises of the retailer may be sold only during the hours that beer may be sold pursuant to the laws of the state.~~ Retailers holding a valid wine by the drink license may sell wine for consumption on the premises only. Retailers who do not possess a valid wine by the drink license, shall not permit consumption of wine on the licensed premises but may sell the wine only in its original unbroken container. Wine sold for consumption or dispensed on the licensed premises may be sold, consumed or dispensed only during hours that beer can be sold, consumed or dispensed pursuant to the laws of the state. Wine sold by the retailer for consumption off the premises of the retailer may be sold only during the hours that beer may be sold pursuant to the laws of the state.

**Section 15.** Chapter 5.13.020 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

~~5.13.020 Application-Fee-Period. A. All persons within the city who serve and sell liquor retail by the drink, beer and wine, or beer, or wine, at a party, or convention or similar event to take place within the city, shall obtain an alcohol beverage catering permit issued pursuant to this chapter. An alcohol beverage catering permit shall be limited to authorization to sell liquor, beer or wine, or any combination thereof, for a period not to exceed three consecutive days. Further, the permit shall be limited to authorization to sell liquor, beer or wine, or any combination thereof, based upon the type of license which the applicant possesses. Applications~~

for such permit shall be made to the city, ~~where the liquor, beer or wine is to be served within the city,~~ on such form as prescribed by the city, which shall contain at a minimum, but not be limited to, the following information:

1. The name and address of the applicant and the number of his/her state liquor, beer or wine license;
2. The dates and hours during which the permit is to be effective, not to exceed three consecutive days;
3. The names of the organizations, groups, or persons sponsoring the event; and the name of the applicant's designee who will be present at the event;
4. The address at which the liquor, beer or wine is to be served, and if a public building, the rooms in which the liquor, beer or wine is to be served. If the location or premises upon which the liquor, beer or wine is to be served is not owned by the applicant, a certified copy of the lease or consent to occupy the premises and a showing of proof that the owner consents to the service and sale of alcoholic beverages on such premises must be included with the application.

B. The application shall be verified by the applicant and filed with the city clerk not less than fourteen days prior to the catering date(s) requested. Failure to complete the required portions of the application may result in a denial of the application.

C. The application shall be accompanied by a filing fee in the amount of twenty dollars for each day the permit is to be in effect and such fee shall be paid to the city and shall not be refunded in any event.

D. Any alcohol catering permit issued by the city, shall be valid only under the conditions and terms approved by the city council and be valid only within the city limits.

E. A catering permit issued pursuant to this chapter is nontransferable.

~~F. A catering permit may be issued only to persons holding a valid Idaho retail liquor license issued pursuant to Idaho Code Sec. 23-901 et seq.~~

**Section 16.** Chapter 5.13.030 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.13.030 Application-Approval-Denial. A. Upon the filing of an application for an alcohol beverage catering permit, ~~the mayor and city council receiving the application shall, upon the advice and recommendation of the chief of police,~~ shall approve or disapprove the application and indicate the determination on the face of the application ~~by endorsement signed by the city clerk. Copies~~ A copy of the application, with signed endorsement thereon, shall be mailed or delivered immediately to ~~the chief of police and the applicant,~~ and a the signed copy original retained by the city clerk. An application approved in this manner shall constitute an alcohol beverage catering permit.

B. The chief of police shall run a background check of the applicant and shall verify compliance with the provisions set forth in this chapter. ~~Any findings made by the chief of police will be considered in the city council's decision to approve or deny the catering permit.~~

C. The chief of police may ~~recommend denial of~~ deny a catering permit to protect the health, safety, and welfare of the public, to prevent unlawful disturbances or public nuisance, or to promote and carry out the policies of the city.

D. The chief of police may ~~recommend,~~ upon good cause shown, require different conditions, terms, or a reduction in the number of requested dates or times for a catering permit

as determined reasonable to carry out the policies of the city, which include protection of the health, safety and welfare of the public, or to prevent an unlawful disturbance or nuisance. Such conditions may include execution of an indemnification agreement; posting of appropriate signs; and hiring at the applicant's expense of additional bonded security personnel.

E. In the case of a denial or revision, the applicant may appeal the decision to the Hailey City Council.

**Section 17.** Chapter 5.13.040 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and the addition of the underlined language, as follows:

5.13.040 Permit display-Required. The applicant or the applicant's designee is required to carry, display or post the original alcohol beverage catering permit issued hereunder and must be personally present at the approved catering premises at all times during the life term of the catering permit. The applicant's designee on the application shall also be approved by city council in the same manner as described herein for the applicant.

**Section 18.** Repealer Clause. All Ordinances or Resolutions or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 19.** 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 20.** Effective Date. This Ordinance shall be in full force and effect after its passage, approval and publication according to law.

**PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL** and approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Rick Davis, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
Heather Dawson, City Clerk

Publish: Wood River Journal, \_\_\_\_\_, 2008



AGENDA ITEM SUMMARY

DATE: 2/15/08 DEPARTMENT: Building

DEPT. HEAD SIGNATURE: *David Ferguson*

SUBJECT: Proposed amendment of Title 15 of the Hailey Municipal Code

AUTHORITY:  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code Title 15  
Municipal Code  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

- 1) Amendment of Hailey Municipal Code to encourage the construction of Energy Star certified single family residences by deferring the building permit fee, plan review fee and Development Impact Fee until a Certificate of Occupancy is issued. The code currently requires that these fees be paid by the applicant when the permit is issued.

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # \_\_\_\_\_  
Budget Line Item \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: David Ferguson Phone # 788-9815 Ext 16  
Comments:

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

<input type="checkbox"/> City Attorney	<input type="checkbox"/> Clerk / Finance Director	<input type="checkbox"/> Engineer	<input type="checkbox"/> Building
<input type="checkbox"/> Library	<input type="checkbox"/> Planning	<input type="checkbox"/> Fire Dept.	_____
<input type="checkbox"/> Safety Committee	<input type="checkbox"/> P & Z Commission	<input type="checkbox"/> Police	_____
<input type="checkbox"/> Streets	<input type="checkbox"/> Public Works, Parks	<input type="checkbox"/> Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

The H.E.L.P. committee feels that this incentive will help to encourage Energy Star construction.

ADMINISTRATIVE COMMENTS/APPROVAL:

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

ACTION OF THE CITY COUNCIL:

Date 2/25/2008 - City Council approved concept in New Business.  
3/10/2008 - Public Hearing + First Reading of proposed ordinance

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

HAILEY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTIONS 15.08.020(E) AND 15.16.070.01 OF THE HAILEY MUNICIPAL CODE BY ALLOWING FOR THE DEFERRAL OF BUILDING PERMIT, PLAN REVIEW, FIRE REVIEW AND DEVELOPMENT IMPACT FEES TO THE DATE OF THE ISSUANCE OF A CERTIFICATE OF OCCUPANCY FOR ENERGY STAR CERTIFIED SINGLE FAMILY RESIDENCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Hailey City Council finds that it is appropriate to defer payment of building permit, plan review, fire review and development impact fees until the time of issuance of a certificate of occupancy for single family residential buildings which comply with Energy Star certification requirements; and

WHEREAS, the Hailey City Council has determined that amendments to the Hailey Municipal Code allowing for the deferral of fees for energy efficient residences will promote the public health, safety and welfare of the citizens of the City of Hailey, Idaho.

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

**Section 1.** Section 15.08.020(E) of the Hailey Municipal Code is amended by the addition of the underlined language, as follows:

15.08.020(E) Fees, Deposits and Refunds: For buildings, structures and other improvements requiring a building or other permit under this chapter, fees, deposits and refunds shall be paid to the city of Hailey as specified herein.

1. Building Permit Fee. Fees shall be charged utilizing Table 1-A of the 97 UBC, published by the International Conference of Building Officials (ICBO). Building valuation shall be factored at one hundred twenty dollars (\$120.00) per square foot. For new construction or substantial remodels, an application fee of \$500 shall be made at the time the building permit application is submitted to the city. Said fee shall be credited to the total amount of the building permit fee, but shall be forfeited if the building permit is not obtained by the applicant within 180 days of permit approval. Except as otherwise provided for herein, the remainder of the building permit fee and the deposit for final inspection shall be collected when the building permit is issued. At the election of the applicant, payment of the remainder of the building permit fee for a Energy Star certified single family residence may be deferred to the date of the issuance of a certificate of occupancy. For the purpose of Section 15.08.020(E), an Energy Star certified single family residence shall mean a single family residence certified as an Energy Star project in accordance with the Northwest Energy Star Program, as amended.

2. Plan Review Fee: Building Department review will be 65% of the building permit fee. Except as otherwise provided for herein, the plan review fee shall be collected when the building permit is issued. At the election of the applicant, payment of the plan review fee for an Energy Star certified single family residence may be deferred to the date of the issuance of a certificate of occupancy.

3. Fire Review Fee: Fire Department review for commercial or multi-family projects shall be 35% of the building plan review fee. Except as otherwise provided for herein, the fire review fee shall be collected when the building permit is issued. At the election of the applicant, payment of the fire review fee for an Energy Star certified single family residence may be deferred to the date of the issuance of a certificate of occupancy.

4. Deferred Submittal Fee: An additional 100% of the original plan review fee may be charged for all deferred submittals, as set forth in Section 106.3.4.2 of the 2003 IBC, as amended by this chapter.

5. Moved Structure Fee: Moved structures will be calculated by using the estimated cost of the move applied to Table 1-A of the 97 UBC.

6. Manufactured Homes Fee: Fees shall be based on the on-site elements constructed, not the home itself.

7. Demolition Fee: Fee shall be \$75 and shall be due at the time the application is submitted to the city.

8. Re-roof Fee: Fee shall be calculated using Table 1-A of the 97 UBC. Valuation shall be based on scope of the work and materials.

9. Fence Fee: Fee will be \$30 and be paid when the application is submitted.

10. Shed Fee: Permits must be obtained for all sheds exceeding 120 square feet. Fees shall be based on Table 1-A of the 97 UBC.

11. Deposit for Final Inspection: In addition to the building permit fees as stated above, a deposit shall be collected when the building permit is issued, to ensure final inspection. A deposit shall be 25% of the total building permit fee or \$100, whichever is greater.

**Section 2.** Section 15.16.070.01 of the Hailey Municipal Code is amended by the addition of the underlined language, as follows:

15.16.070.01 Payment of Fees. Development Impact Fees shall be paid to the City at the following times:

A. If a Building Permit or Manufactured/Mobile Home installation permit is required, then at the time such permit is issued, except as provided in Section 15.08.020(E);

B. If no Building Permit or Manufactured/Mobile Home installation permit is required, then at the time that construction commences; or

C. At such other time as the Developer and the City have agreed upon in writing.

**Section 3.** If any section, paragraph, sentence or provision hereof or the application thereof to any particular circumstances shall ever be held invalid or unenforceable, such holding shall not affect the remainder hereof, which shall continue in full force and effect and applicable to all circumstances to which it may validly apply.

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

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

ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE  
MAYOR this \_\_\_\_ day of March, 2008.

\_\_\_\_\_  
Richard L Davis, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
Heather Dawson  
Hailey City Clerk

Publish: Summary - Wood River Journal: \_\_\_\_\_