

AGENDA ITEM SUMMARY

DATE: 06-23-08

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: SK

SUBJECT: 1st reading of Ordinance No. 1009 – amending Hailey's Zoning Ordinance, Ordinance No. 532, by amending Article 6A.3, Review of Proposals and Authority of the Administrator.

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The amendments will allow for design review exemption of certain projects and would establish procedures for review of modifications to design review approval. The Commission recommended approval on April 21, 2008.

The public hearing and first reading of this ordinance was conducted on May 19, 2008. For the second reading the Council requested limiting the authority the Planning and Zoning Commission recommended be given to the administrator to approve minor modifications to design review approval. On June 9, 2008 staff noted that this change will result in a minimum 2 week delay between a request to modify design review and a decision from the city. The Council subsequently decided to keep the language as recommended by the Commission and have another first reading of the ordinance.

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

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

ACTION OF THE CITY COUNCIL:

Date _____
6/23 - council continued this discussion to July 14th mtg.

City Clerk _____

FOLLOW-UP:

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

HAILEY ORDINANCE NO. 1009

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING ARTICLE 6A, DESIGN REVIEW, SECTION 6A.3, TO ADD PROVISIONS FOR DESIGN REVIEW EXEMPTION AND TO ADD PROCEDURES FOR REVIEW OF MODIFICATIONS TO DESIGN REVIEW APPROVAL; 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 with the Hailey Comprehensive Plan;

WHEREAS, the amendments will not create excessive additional requirements at public cost for public facilities and services; 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 6A.3, Review of Proposals and Authority of the Administrator, of the Hailey Zoning Ordinance No. 532, is hereby amended by the addition of the following language:

- f. The Administrator has the authority to recommend exemption of certain projects from the design review requirements, upon finding; the project is minor, will not conflict with the design review standards of this Chapter and will not adversely impact any adjacent properties. Examples include, but are not limited to minor deck additions, changes to siding materials, changes to an existing window or door, an addition of a window or door, and minor landscape changes. Such recommendation for exemption shall be drafted in the form of Findings of Fact and Conclusions of Law, subject to final decision by the Commission on its consent agenda prior to issuance of a building permit. Should the Commission deny the Administrator's recommendation or should the Administrator determine that the proposal does not meet all of the above evaluation criteria, the project shall be subject to the provisions of this chapter prior to issuance of a building permit.
- g. The Administrator has the authority to approve minor modifications to projects that have received design review approval by the Commission prior to, and for the duration of a valid Building Permit. The Administrator shall

make the determination as to what constitutes minor modifications and may include, but are not limited to changes to approved colors and/or siding materials, changes to site plans that do not increase building footprints or significantly change driveway or road alignment, changes to landscape plans that do not decrease the amount of landscaping, changes to dumpster enclosures, changes to exterior lighting fixtures and location, or changes to windows that do not significantly affect project design, appearance or function. All approved modifications must be documented in a memo to the project file and on the approved set of plans on file with the city. For modifications to design review approval that are determined by the Administrator not to be minor, the Administrator has the authority to recommend approval or denial of such modifications, subject to final decision by the Commission on its consent agenda. Such recommendation for approval or denial shall be drafted in the form of Findings of Fact and Conclusions of Law.

Section 2. 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 3. All City of Hailey ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

Section 4. 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 _____, 2008.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 7/28/2008

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Hailey Ordinance No. 1010

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Following the Council's review of this ordinance at your last meeting, I have revised language found in Section 2.04.010.06(5), which addresses reconsideration of a decision. The new language is in bold print. There are two revisions. First, the motion for reconsideration is now limited to legal issues. Under this draft, new evidence is not a sufficient reason to seek a reconsideration. Second, I have outlined a two step hearing process if the city wishes to reconsider a decision. The first step does not require a public hearing, while the second step would require a public hearing with adequate notice.

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

Ned

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

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

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

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct a public hearing, and if appropriate, make a motion to approve Ordinance No. 1010 and to conduct a first reading of the ordinance.

FOLLOW-UP REMARKS:

6/23 - Council approved to continue this in next mtg - July 14, 2008.
7/14 - discussion around specifics steps for reconsideration. -
7/28 - legal revisions made by N. Williamson to spell out procedures more clearly - Council to perform 1st reading - -140-

HAILEY ORDINANCE NO. 1010

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 2.04.010.05 OF THE HAILEY MUNICIPAL CODE TO PROVIDE PUBLIC HEARING PROCEDURES FOR EX PARTE COMMUNICATIONS, SITE VISITS AND NEW EVIDENCE; AMENDING SECTION 2.04.010.06 OF THE HAILEY MUNICIPAL CODE TO DELETE ANY REFERENCE TO ROBERT'S RULES OF ORDER AND TO CREATE PROCEDURES FOR MOTIONS; BY AMENDING CHAPTER 2.04 OF THE HAILEY MUNICIPAL CODE TO ADD A NEW SECTION 2.04.010.07 PROVIDING FOR PROCEDURES FOR SITE VISITS; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the City of Hailey has adopted an ordinance, creating Chapter 2.04 of the Hailey Municipal Code, providing for procedures for public hearings;

WHEREAS, the Hailey City Council believes it prudent to establish procedures for ex parte communications, site visits, new evidence and making motions; and

WHEREAS, the Mayor and the City Council find that amendments to Chapter 2.04 of the Hailey Municipal Code will clarify the procedures of public meetings by the Hailey City Council and Planning and Zoning Commission.

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

Section 1. Section 2.04.010.05 of the Hailey Municipal Code is amended by the deletion of the stricken language and addition of the underlined language, as follows:

2.04.010.05 Public Hearings. If Idaho law or Hailey Ordinance requires a public hearing, the following procedure shall be followed with regard to all public hearings conducted by and before the City Council and the Planning and Zoning Commission:

1. City staff shall present an introduction and orientation;
2. The Mayor, City Council Members and Planning and Zoning Commission Members shall disclose whether they have viewed the property subject of the public hearing, and whether they have had an ex parte communication with the applicant, a member of the public or a representative of the applicant or a member of the public about the application being considered. The approximate date and who was present during a site visit should be disclosed. Ex parte communications must be disclosed by identifying the person and the person's employment or affiliation, and by providing a general description of the communication.

23. The applicant or interested party shall be then afforded the opportunity to present and explanation of the application, request or other matter being considered by the City Council or Planning and Zoning Commission;

34. The members of the City Council or Planning and Zoning Commission shall ~~then~~ have the opportunity to direct questions to the applicant or interested party;

45. Public hearing shall then take place, and members of the public shall being afforded the opportunity to be heard. The presiding officer shall have the discretion to set limits as to the time each individual may speak and/or the number of times each individual may speak. The presiding officer shall also have the authority to set an overall time limit for the entire public hearing;

56. After completion of all testimony and/or public comment, or at the conclusion of the time limit set for the public hearing, whichever shall first occur, the public hearing shall be closed;

~~6. The members of the City Council or Planning and Zoning Commission shall then have an opportunity to direct questions to the staff and/or the applicant or interested party;~~

7. The applicant shall be afforded a right to rebut any testimony or evidence presented as public comment;

8. In the event new material evidence is introduced after the public hearing is closed, the presiding officer shall again open the public hearing for the limited purpose of addressing the new evidence, in which case the applicant shall again be afforded a right to rebut any additional testimony or evidence.

89. A decision may then be rendered on the merits of the application or matter before the City Council or Planning and Zoning Commission, and shall be based on written findings of fact and conclusions of law to be prepared by the staff and presented for adoption at the next regular meeting of the City Council or Planning and Zoning Commission; and

910. Any matter under consideration by the City Council or Planning and Zoning Commission may by a motion properly made, seconded, and passed, tabled to a date uncertain or continued to a date certain, at which time the matter will be taken up again for action or decision.

Section 2. Section 2.04.010.06 of the Hailey Municipal Code is amended by the deletion of the stricken language and addition of the underlined language, as follows:

2.04.010.06 ~~Robert's Rules of Order. All actions taken shall be pursuant to Robert's Rules of Order, except that an item may be discussed and deliberated upon without a motion.~~

Motions.

1. All actions and decisions of the City Council or Planning and Zoning Commission are formalized by the process of making and voting on motions. After a public hearing is closed, the City Council or Planning and Zoning Commission shall deliberate. After deliberation a motion shall be made and seconded. Further deliberation may occur once a motion is made and seconded. The chair shall ask for a motion and vote. Those Council Members or Commissioners in favor of the motion say "aye"; those Council Members or Commissioners opposed to the motion say "no".
2. After a motion is made and there has been discussion on the motion, if an amendment has been suggested and discussed, then a motion to amend the motion is required. A motion should be amended as follows:

- a. A Council Member or Commissioner makes a motion to amend stating the amendment.
 - b. A Council Member or Commissioner seconds the amendment.
 - c. Chair asks for a vote on the amendment.
 - d. If amendment carries, the Chair then asks for a vote on the “entire motion as amended.”
 - e. If amendment fails, Chair asks for a vote on the “original motion.”
3. If a motion has been voted on and the motion needs to be withdrawn, then a motion to withdraw the approved motion is required. A motion should be withdrawn as follows:
- a. A Council Member or Commissioner makes a motion to withdraw stating what motion is being withdrawn.
 - b. A Council Member or Commissioner seconds the motion to withdraw.
 - c. Chair asks for a vote on the motion to withdraw.
 - d. If the motion to withdraw carries, then a new motion can then be made, seconded and voted on.
4. If a motion has been voted on and if voting members believe it is appropriate to reconsider the motion, then a motion for reconsideration is required at the next scheduled regular meeting of the City Council or Planning and Zoning Commission. Except as otherwise provided herein, motions for reconsideration shall only be made by a Council Member or Commissioner. A motion for reconsideration should be made as follows:
- a. A Council Member or Commissioner who voted on the prevailing side of the motion in question has to makes a motion for reconsideration stating what motion is being reconsidered.
 - b. A Council Member or Commissioner who voted on the prevailing side of the motion in question has to second.
 - c. Chair asks for a vote on the motion for reconsideration.
 - d. If the motion for reconsideration carries, deliberation can then occur on the matter and a new motion can be made, seconded and voted on.
5. An applicant may file a motion for reconsideration with the City Council or the Planning and Zoning Commission within fifteen (15) days of the date of the certificate of service on the findings of fact and conclusions of law. **A motion for reconsideration shall be limited to legal issues. New evidence shall not be a basis for reconsideration of a prior decision.** The applicant’s motion for reconsideration shall be heard at the next available hearing before the City Council or Planning and Zoning Commission. **If a motion for reconsideration is filed, the City Council or the Planning and Zoning Commission, as the case may be, shall first decide whether to grant a motion for reconsideration. If a motion for reconsideration is denied, the original decision shall remain in full force and effect. If a motion for reconsideration is granted, the City Council or the Planning and Zoning Commission, as the case may be, shall then conduct a public hearing**

allowing for legal notice to be provided, during which time the original decision may be remain in full force and effect or be modified. The time for an appeal shall be terminated by the filing of a timely motion for reconsideration which, if granted, could affect the findings of fact and conclusions of law. The time for an appeal begins to run when a motion for reconsideration is denied, or if granted, after the date of the certificate of service on the final findings of fact and conclusions of law on the application.

Section 3. Chapter 2.04 of the Hailey Municipal Code is amended by the addition of a new Section 2.04.010.07, as follows:

2.04.10.07 **Site Visits.** If the City Council or Planning and Zoning Commission wish to conduct a site visit, a motion should be made during a public hearing to conduct a site visit on a date certain. In such a case, the site visit should be conducted by the presiding officer and an audio recording should be maintained of the site visit.

Section 4. **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 5. **Repealer Clause.** All Ordinances or Resolutions or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 6. **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.

Richard L. Davis, Mayor
City of Hailey

ATTEST:

Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 7/28/2008

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Tree Ordinance **Ord 1013**

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

Following the Council's review of the tree ordinance at your last meeting, I have included some language about notice to property owners and consultation, along with a right of appeal. In addition, I have added some language clarifying when a tree along a public right-of-way boundary is subject to the ordinance. Finally, I have made some formatting revisions.

I forwarded this draft to staff for review and comments. The only expressed concern was the language about consulting. The staff felt we should trust the Tree Committee to balance the preferences of the adjacent owner with the needs of the entire community.

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

Ned

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

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)
____ City Attorney ____ Clerk / Finance Director ____ Engineer ____ Building
____ Library ____ Planning ____ Fire Dept. _____
____ Safety Committee ____ P & Z Commission ____ Police _____
____ Streets ____ Public Works, Parks ____ Mayor _____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Conduct a public hearing, and if appropriate, make a mMotion to approve Ordinance No. 1010 and to conduct a first reading of the ordinance.

FOLLOW-UP REMARKS:

HAILEY ORDINANCE NO. 1013

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, PROVIDING POLICIES, REGULATIONS AND STANDARDS FOR A HAILEY TREE ORDINANCE; PROVIDING FOR A HAILEY TREE COMMITTEE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Mayor and the City Council of the City of Hailey have adopted the City of Hailey Parks, Lands & Trails Master Plan, Standards & Guidelines ("Master Plan"), which promotes diverse recreation opportunities within walking distance for the greatest number of residents of Hailey;

WHEREAS, the Master Plan recognizes that our trees, which make up our community forest, are an asset and contribute to reduced energy and maintenance costs, while making the community a more pleasant place to live and work; and

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 ensure that our community forest is maintained and improved in a manner that ensures it is protected for future generations;

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

Section 1. Title 2 of the Hailey Municipal Code is amended by the addition a new Chapter 2.36, as follows:

Chapter 2.36

HAILEY TREE COMMITTEE

2.36.010 Purpose. It is the purpose of this ordinance to establish a Hailey Tree Committee to promote sound arboricultural practices and tree diversity and to promote public education of proper tree care practices.

2.36.020 Establishment. The Hailey Tree Committee is hereby established. The Hailey Tree Committee shall consist of five (5) voting members. Each member shall be appointed by the Mayor and approved by the City Council, shall have been a resident of Blaine County for two (2) years prior to appointment to the Hailey Tree Committee and shall be a resident of the City of Hailey at the time of appointment, except that one (1) member may reside outside the corporate limits of the City of Hailey, but within the City's Area of Impact. Each member must remain a resident of the City, or, in the case of the City's Area of Impact, within the impact area, during the term of his or her membership on the Hailey Tree Committee. Each member shall serve for a term of three (3) years. The terms shall be staggered and shall be filled in the same manner as original appointments, but replacements shall serve only until the expiration of the original term. The initial appointment term shall be one year for one member, two years for two members and three years for two members. Thereafter, appointments shall be for a

term of three years or until a successor is appointed. The Hailey Tree Committee shall elect officers from among the members of the Hailey Tree Committee. The chairperson shall preside at meetings of the Hailey Tree Committee. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson. All meetings of the Hailey Tree Committee shall be open to the public, and follow the requirements of Idaho's open meeting laws. The Hailey Tree Committee shall keep minutes and other appropriate written records of its resolutions, proceedings, and actions. All public hearings shall be conducted following public hearing procedures contained in Chapter 2.04 of the Hailey Municipal Code.

2.36.030 Recommending Body. The Hailey Tree Committee shall have no authority to bind any governing body affected by planning decisions. However, the Hailey Tree Committee shall have the power to make recommendations, upon a majority vote of its attending members, to the City Council, the Hailey Planning and Zoning Commission, the Hailey Historic Preservation Commission, and the Hailey Parks and Lands Board or other similar commissions or boards.

2.36.040 Powers and Duties.

A. Unless otherwise provided by law, the Hailey Tree Committee shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this Ordinance. Rules of procedure and bylaws adopted by the Committee shall be available for public inspection. The Committee shall meet a minimum of four times a year.

B. The Hailey Tree Committee shall perform any and all of its obligations under Chapter 12.20 of the Hailey Municipal Code.

C. The Hailey Tree Committee shall draft and recommend necessary amendments to Chapter 12.20 of the Hailey Municipal Code. The Committee shall also create, draft and recommend a City of Hailey Urban Forestry Plan ("Forestry Plan") to the City Council. **The Forestry Plan shall contain provisions for notice to adjacent property owners, who will be granted a right to consult on the planting, removal and maintenance of Public Trees.** Should the Forestry Plan be accepted and codified by the Council, the Committee shall draft and recommend necessary amendments to those documents. The Forestry Plan shall be reviewed on a five-year basis.

D. The Hailey Tree Committee shall create, draft and recommend policy and implementation of policy concerning selection, planting, maintenance, and removal of trees, shrubs and other plants in the city.

E. The Hailey Tree Committee shall recommend the allocation of funds for the implementation of Chapter 12.20 of the Hailey Municipal Code, for the establishment of educational and informational programs, and for the development of policies and procedures regarding the city duties.

F. The Committee shall establish criteria for licensing to contractors and others for the removal and maintenance of Public Trees within the City of Hailey.

G. The Committee shall keep the City of Hailey apprised of its activities.

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

Section 2. Title 2 of the Hailey Municipal Code is amended by the addition a new Chapter 12.20, as follows:

Chapter 12.20

HAILEY TREE ORDINANCE

12,20.010 Purpose. The purpose of this ordinance is to establish policies, regulations, standards and guidelines necessary to ensure that the City of Hailey will continue to realize the benefits of its community forest. The provisions of this ordinance are enacted to:

- A. Plan maintenance of city trees with sound arboricultural practices and encourage tree diversity based on the Forestry Plan; and
- B. Promote public education of proper tree care practices.

12,20.020 Definitions. For purposes of this Ordinance, the following words and phrases shall have the following meanings, unless another meaning is plainly intended:

“City of Hailey Urban Forestry Plan” or “Forestry Plan” shall mean that plan recommended by the Hailey Tree Committee and adopted by the Hailey City Council, pursuant to Section 2.36.040 of the Hailey Municipal Code.

“Flush Cut” shall mean cutting within the branch bark collar or ridge of a branch when pruning.

“Hailey Tree Committee” shall mean that committee established pursuant to Chapter 2.36 of the Hailey Municipal Code.

“Private Tree” shall mean any Tree, Shrub or other woody vegetation not on Public Property.

“Public Property” shall mean property owned by the City of Hailey, or a public right-of-way dedicated to the public, or a public easement. Public Property includes but is not limited to public streets, alleys and public parks.

“Public Tree” shall mean any Tree, Shrub or other woody vegetation **whose trunk is located wholly or partially on** Public Property. The term “Public Tree” includes Street Trees.

“Shrub” shall mean a perennial, multiple stemmed woody plant often formed by a number of vertical or semi-upright branches arising from close or at ground level, **where any**

branch is located wholly or partially on Public Property, and whose height at maturity is usually between three and fifteen feet and.

“Street Tree” shall mean any Tree, Shrub, or other woody vegetation on lands within City of Hailey street rights-of-way.

“Top” shall mean the act of lopping, rounding over or leaving long branch stubs when pruning, not pruning to an auxiliary branch.

“Tree” shall mean a woody perennial plant.

12.20.030 Public Trees.

12.20.30.01 No person, firm or legal entity shall plant, prune or remove any Public Tree without first obtaining an encroachment permit from the City of Hailey. All such permit applications shall be reviewed by the Hailey Tree Committee. The city may grant a permit or conditionally grant a permit only when such is consistent with provisions of this Chapter and/or other applicable laws or standards.

12.20.30.02 No person, firm or legal entity shall abuse, poison or mutilate any Public Tree, plant or Shrub or the root of any Public Tree, plant or Shrub, unless allowed pursuant to an encroachment permit issued under this Chapter.

12.20.30.03 No person, firm or legal entity shall Top any Public Tree or to Flush Cut any branch on Public Trees, unless allowed pursuant to an encroachment permit issued under this Chapter.

12.20.30.04 Any person, firm or legal entity contracting for the maintenance, removal or planting of Public Trees must enter into a contract for services with the City of Hailey. The contract shall be revocable for cause. Any person or entity must provide security in accordance with Section 12.16.080 of the Hailey Municipal Code.

12.20.030.05 Any utility company shall, upon review, be granted a yearly permit that allows work on Street Trees. Permits shall be subject to the following restrictions:

A. Work done on Public Trees and roots must meet the standards and practices as stated in the Forestry Plan.

B. The person or entity must provide security in accordance with Section 12.16.080 of the Hailey Municipal Code.

12.20.40.06 Owners of property adjacent to a Street Tree shall notify the City of Hailey if they are unable to ensure adequate maintenance for that Street Tree. Adequate maintenance shall include sufficient water, mulching young trees, and protection from compaction or injury by vehicles or other causes.

12.20.040 Exclusion. The City of Hailey has the right to plant, maintain, and remove any Public Tree or Shrub in order to promote public safety or to promote or implement the Forestry Plan.

12.20.050 Private Trees.

12.20.050.01 Each private property owner shall maintain any Tree or shrub on their real property, **regardless whether the trunk of a Tree or any branch of a shrub is partially on Public Property**, so that such Trees or shrubs do not endanger the public or become hazardous to any public street, alley or other public right-of-way, public utilities or other Public Property, consistent with provisions of this Ordinance and/or other applicable laws or standards.

12.20.050.02 Upon the discovery of a serious epidemic disease or pest in any Tree, the City of Hailey shall serve notice upon the owner of the Tree, **whose trunk is located wholly or partially on private property**, which shall require that owner to eradicate, remove or otherwise control such conditions within a given timeframe.

12.20.060 Enforcement.

12.20.060.01 Any person, firm or legal entity violating any provisions of this Chapter shall be guilty of a misdemeanor which shall be punishable by a maximum fine of \$300.00 or thirty (30) days in jail or both such fine and imprisonment.

12.20.060.02 In addition to the penalties set forth in Section 12.20.060.01, above, any person, firm or legal entity whose actions cause damage to or the destruction of a Public Tree shall be liable to the City of Hailey for the value of the Public Tree and all costs incurred by the City of Hailey in caring for, treating, pruning, removing and/or replacing the Public Tree.

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.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS ____ DAY OF _____, 2008.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk

Publish: Wood River Journal _____, 2008

AGENDA ITEM SUMMARY

DATE: 06-23-08

DEPARTMENT: Planning

DEPT. HEAD SIGNATURE: BR

SUBJECT: Ordinance vacating a remnant portion of the alley located within Block 78, Original Hailey Townsite. # 1014

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

The Council approved findings of fact on June 9, 2008 vacating a remnant portion of the alley located within Block 78, Original Hailey Townsite. An ordinance and quitclaim deed is required to finalize the decision.

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"/> _____
<input type="checkbox"/> Safety Committee	<input type="checkbox"/> P & Z Commission	<input type="checkbox"/> Police	<input type="checkbox"/> _____
<input type="checkbox"/> Streets	<input type="checkbox"/> Public Works, Parks	<input type="checkbox"/> Mayor	<input type="checkbox"/> _____

ACTION OF THE CITY COUNCIL:

Date _____

City Clerk _____

FOLLOW-UP:

*Ord./Res./Agmt./Order Originals: _____ *Additional/Exceptional Originals to: _____

Copies (all info.): _____ Copies (AIS only) _____

Instrument # _____

6/23 - council continued the discussion / postponed reading until July 14th - no quorum for this part of the meeting -

7/14 - 1st Reading - assign ordinance # 1014

7/28 - 2nd Reading

HAILEY ORDINANCE NO. 1014

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, VACATING THAT PORTION OF THE CITY RIGHT-OF-WAY WITHIN BLOCK 78 ALLEY, ORIGINAL HAILEY TOWNSITE; PROVIDING FOR EXECUTION OF A QUITCLAIM DEED BY THE MAYOR CONVEYING TITLE TO SAID VACATED PROPERTY TO THE OWNER OF PROPERTY ADJACENT TO THE VACATED RIGHT-OF-WAY; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has determined, and hereby finds, that the remaining portion of the alley within Block 78, Original Hailey Townsite, has not been used by the City of Hailey as a public alley right-of-way, is no longer needed for public use, and is of no significant use or value to the City and that the vacation of same is expedient for the public good; and

WHEREAS, the Hailey City Council believes it is appropriate to vacate the remaining portion of the alley within Block 78, Original Hailey Townsite.

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

Section 1. The city of Hailey hereby vacates that remaining portion of the alley within Block 78, Original Hailey Townsite, as shown on the official Plat of the City of Hailey on file in the office of the Blaine County Recorder, more particularly described in attached Exhibit "A."

Section 2. The Mayor of the City of Hailey is hereby authorized to execute and deliver a Quitclaim Deed, on behalf of the City of Hailey, transferring title to the property vacated as deemed in the best interest of the adjacent property owner pursuant to Idaho Code Section 50-311.

Section 3. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR
THIS ____ DAY OF _____, 2008.

Richard L. Davis, Mayor, City of Hailey

Attest:

Mary Cone, City Clerk