

**AGENDA ITEM SUMMARY**

**DATE:** 10-7-2013      **DEPARTMENT:** CDD      **DEPT. HEAD SIGNATURE:** MA

---

**SUBJECT:** Proceed with 3<sup>rd</sup> Reading of Ordinance 1131 amending Title 18 of the Hailey Municipal Code, the Mobility Design Ordinance, by amending Section 18.04 to allow the Hearing Examiner or Planning and Zoning Commission to approve an infrastructure project in conjunction with a zoning and subdivision application which involves a final decision by the Hearing Examiner or Planning and Zoning Commission. The amendment further defines the required standards of the Mobility Design Ordinance as it relates to Large Subdivisions and smaller projects.

---

**AUTHORITY:**  ID Code       IAR \_\_\_\_\_       City Ordinance/Code Zoning Ordinance No. 532  
(IFAPPLICABLE)

---

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

**Procedural History**

- Planning and Zoning Public Hearing: July 22, 2013
- City Council Public Hearing: August 19, 2013
- First Reading: August 19
- Second Reading: August 26
- Third Reading: October 7, 2013

**Summary**

After passing the Mobility Design Ordinance, or Title 18, in the latter part of 2012, staff began to analyze and determine whether the newly minted ordinance needed any fine tuning. When the building season began in early 2013, it gave staff an opportunity to assess the ordinance, finding that for smaller projects, the approval process was too lengthy and cumbersome without any added benefit to the City or the applicant.

Under the current ordinance, a single Design Review project could take as long as five months before the applicant is allowed to build the require public infrastructure improvements. For example, a Design Review project application submitted on January 1 would not have final approval for constructing the public improvements until May 6, which adds 56 days to the standard approval process (see Staff Report for more detail). While this may work well for Large Subdivisions that involve numerous lots and adjoining property owners, the vast majority of planning and zoning projects involve a single lot and are relatively minor.

The proposal is to amend section 18.04 of the Mobility Ordinance to allow for all decisions on infrastructure projects that do not involve Large Subdivisions to be final on the Planning and Zoning level when those applications do not require City Council consideration. For example, Design Review does not require City Council consideration; however all design review projects that involve public infrastructure improvements still go to the City Council for final approval under the current ordinance. This procedure does not change for Large Subdivisions, which are defined as three or more non-residential lots and five or more residential lots. Under the proposed ordinance, for smaller projects, such as Design Review, the final decision on infrastructure projects would remain with the Planning and Zoning Commission. The amendment also revises the noticing requirements accordingly, requiring on-site postings for Large Subdivisions but not for smaller projects.

**Planning and Zoning Commission Recommendation**

On July 22, 2013, the Planning and Zoning Commission held a public hearing on the proposed amendment. There was no public comment presented. After brief discussion, the Planning and Zoning Commission voted unanimously (4-0) to recommend adoption of the amendment to the Hailey City Council.

-----  
**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:**

None

-----  
**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library                     | <input type="checkbox"/> Benefits Committee        |
| <input checked="" type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor                       | <input type="checkbox"/> Streets                   |
| <input type="checkbox"/> City Clerk                    | <input checked="" type="checkbox"/> Planning         | <input type="checkbox"/> Treasurer                 |
| <input checked="" type="checkbox"/> Building           | <input type="checkbox"/> Police                      | <input checked="" type="checkbox"/> Sustainability |
| <input type="checkbox"/> Engineer                      | <input type="checkbox"/> Public Works,               | <input type="checkbox"/> _____                     |
| <input type="checkbox"/> Fire Dept.                    | <input type="checkbox"/> Parks                       | <input type="checkbox"/> _____                     |
|  | <input checked="" type="checkbox"/> P & Z Commission |  |

-----  
**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Proceed with 3<sup>rd</sup> Reading of Ordinance No. 1131.

-----  
**ACTION OF THE CITY COUNCIL:**

Date : \_\_\_\_\_  
City Clerk \_\_\_\_\_

-----  
**FOLLOW-UP:**

\*Ord./Res./Agrmt./Order Originals: Record \*Additional/Exceptional Originals to:

Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

Copies (AIS only)

HAILEY ORDINANCE NO. 1131

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING THE HAILEY MUNICIPAL CODE, BY AMENDING SECTION 18.04.018 TO ALLOW THE HEARING EXAMINER OR PLANNING AND ZONING COMMISSION TO APPROVE AN INFRASTRUCTURE PROJECT IN CONJUNCTION WITH A ZONING AND SUBDIVISION APPLICATION WHICH INVOLVES A FINAL DECISION; 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 Municipal Code 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 18.04.018 of the Hailey Municipal Code is hereby amended by the addition of the underlined language and by the deletion of the stricken language, as follows:

18.04.018     Submittal Requirements and Review Procedure

A.     Application Procedure.

1.     A party seeking the construction of an Infrastructure Project shall submit to the Administrator an application on a form provided by the Administrator. The application shall include any proposed plat, plan and profile for streets, water mains and services, sanitary sewers and services, hydrant locations, storm drain plans and calculations, and may also include an erosion control plan, snow storage calculations, traffic study and traffic control plan.

2.     Review of an Infrastructure Project is initiated by the submittal of plans that are substantially complete. ~~The design plans submitted shall be submitted by a registered engineer and that shall conform to the requirements of this Title 18, the Hailey Subdivision or Zoning Ordinance, if applicable, and any conditions of approval. The design plans for an Infrastructure Project for a Large Subdivision shall be submitted by an Engineer with The the seal of the registered engineer~~ Engineer responsible for preparation of the plans shall appear on each sheet.

3.     Following review, the plans may be returned insufficient with comments and deficiencies noted. Further review shall be dependent upon the Engineer responding to each

comment, deficiency or condition of the prior review. Any supplemental specifications that the Owner/Developer or Administrator determines are necessary for the proper construction of a specific project shall be provided at the Owner/Developer expense.

B. Hearing Procedure.

1. The Administrator shall schedule a date for a public hearing to consider the application for the Infrastructure Project. The hearing shall be the same as the public hearing noticed for a zoning or subdivision (design review, PUD or subdivision) application which requires approval of one or more components of the Infrastructure Project.

2. The Administrator shall mail to each addressee on the list furnished by the applicant a copy of the time and place of the hearing at least fifteen (15) days prior to the date scheduled for the hearing. When notice is required to be provided to two hundred (200) or more property owners or purchasers of record, alternate forms of notice may be provided in lieu of mailed notice. Sufficient notice shall be deemed to have been provided if the City provides notice through a display advertisement of at least four (4) inches by two (2) columns in size in the official newspaper of the City at least fifteen (15) days prior to the hearing date. Notice of such hearing shall also be mailed to other political subdivisions. For Large Subdivisions, At least one (1) week prior to the hearing, notice shall be posted at each intersection along the streets being improved to inform people who live on or otherwise use the street. For Large Subdivisions, Posted notice shall state the time and place of the hearing and describe project location, basic elements of project, timing, grant information, other relevant information and solicit input. For Infrastructure Projects not involving Large Subdivisions, notice is not required to be posted as set forth herein.

3. In the event the Hearing Examiner or Commission reviews a zoning or subdivision application which requires a recommendation to the Council and which involves an Infrastructure Project, the Hearing Examiner or Commission shall first make a recommendation to the Council to deny, approve or conditionally approve the application for the Infrastructure Project. The recommendation by the Hearing Examiner or Commission shall be heard by the Council as a de novo hearing at the next available regular Council meeting after the Commission's findings of fact, conclusions of law and recommendation are signed by the Commission. In the event the Hearing Examiner's or Commission's action on the underlying zoning or subdivision application is a final decision, the Hearing Examiner's or Commission's, ~~in its sole discretion, may delay the effective date of any approval until the Council makes a final decision on the application for Infrastructure Project is final.~~

4. In the event an Infrastructure Project does not involve a zoning or subdivision application, the Council shall conduct a public hearing on the application for an Infrastructure Project, subject to the notice requirements set forth in Section 18.04.018(B)(2), above.

5. The Commission and Council shall evaluate each application for an Infrastructure Project based on the guidelines and standards set forth in this Title 18.

C. Pre-Award of Contract. In the event the City Standards and the Standard Drawings identify one (1) vendor of any personal property to be incorporated into an Infrastructure Project, the Council shall determine whether there is only one vendor of the personal property pursuant to Idaho Code § 67-2808, as amended. If the Council makes a

declaration that there is only one (1) vendor for personal property, the City shall publish a notice of a sole procurement in the official newspaper of the City in accordance with Idaho Code § 67-2808, as amended.

D. Pre-Construction for Large Subdivisions.

1. Construction plans for all Infrastructure Projects may be prepared after City approval and shall be prepared by a registered engineer prior to any construction. The seal of the registered engineer responsible for preparation of the plans shall appear on each sheet.

2. The Administrator shall schedule a pre-construction meeting to be held prior to the start of construction with the Owner/Developer and/or his Engineer, city staff and the Contractor. The purpose of the meeting is to discuss the construction schedule, inspection requirements and any items of work that require special coordination with the City. The Administrator shall request that 5 sets of final construction plans be delivered to the City at least one (1) week prior to a pre-construction meeting.

3. Any work, which will affect the movement or safety of vehicles, bicycles or pedestrians, will require submittal of a traffic control plan at least one (1) week prior to the pre-construction meeting. All traffic control devices shall be continuously maintained for the duration of construction, including nights and weekends, and until the right-of-way is free of construction hazards.

E. Construction.

1. All Infrastructure Projects shall be constructed or reconstructed in accordance with City Standards.

2. All testing and inspection shall be at the Owner's/Developer's or his designated Contractor's expense. A registered engineer or his authorized agent acting on behalf of and under the direction of the Owner/Developer shall perform all inspections.

3. All construction shall be scheduled so that a minimum of inconvenience will result to the public. Where irrigation systems are encountered, normal water flow shall not be interrupted unless approved in advance in writing by all parties affected.

4. For projects involving Large Subdivisions, Within 30 days from completion of the project, Drawings of Record shall be submitted to the City Engineer. Three (3) complete sets shall be required for water and sewer construction, and two (2) sets for street and drainage construction. Drawings of Record shall include, but are not limited to, the actual dimensions from property corners or other permanent monuments to sewer and water services.

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 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 \_\_\_\_\_, 2013.

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk

Publish: Idaho Mountain Express \_\_\_\_\_, 2013.

AGENDA ITEM SUMMARY

DATE: 10/07/2013

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Summary of Hailey Ordinance No. 1131 (Mobility Ordinance Amendment)

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a summary of Hailey Ordinance No. 1131 which amended the Mobility Ordinance (Title 18 of the Hailey Municipal Code).

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # \_\_\_\_\_  
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:

Make a motion to approve the summary of Hailey Ordinance No. 1131.

FOLLOW-UP REMARKS:

## SUMMARY OF HAILEY ORDINANCE NO. 1131

The following is a summary of the principal provisions of Ordinance No. 1131 of the City of Hailey, Idaho, duly passed and adopted October 7, 2013, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING THE HAILEY MUNICIPAL CODE, BY AMENDING SECTION 18.04.018 TO ALLOW THE HEARING EXAMINER OR PLANNING AND ZONING COMMISSION TO APPROVE AN INFRASTRUCTURE PROJECT IN CONJUNCTION WITH A ZONING AND SUBDIVISION APPLICATION WHICH INVOLVES A FINAL DECISION; 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.

Hailey Ordinance No. 1131 amends Hailey Municipal Code, as follows:

**Section 1** amends Section 18.04.018 of the Hailey Municipal Code to allow the Hearing Examiner or the Planning and Zoning Commission to approve an infrastructure project at the time of a final decision on a zoning or subdivision application, to require design plans for an infrastructure project to be submitted by an engineer for only a Large Subdivision, to require posting of the hearing for an Infrastructure Project on site for only Large Subdivisions, and to require drawings of record for Infrastructure Projects for only Large Subdivisions.

**Section 2** provides for a severability clause.

**Section 3** provides for a repealer clause.

**Section 4** provides for an effective date of the ordinance.

The full text of Ordinance No. 1131 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

## CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1131 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1131, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this 7<sup>th</sup> day of October, 2013.

---

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, October \_\_, 2013



9/16/13

AGENDA ITEM SUMMARY

DATE: ~~8/26/13~~ \_\_\_\_\_

DEPARTMENT: PW - Water

DEPT. HEAD SIGNATURE: 

**SUBJECT:** Public Hearing for Municipal Code Chapter 13 housekeeping amendment, to clarify that Hailey's water regulations apply only to the use of water from City of Hailey's water system, not all water used within the city limits of Hailey

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

This ordinance would clarify that the watering restrictions we enforce apply to those which are using city water system, not individual water rights owned by someone other than the city. Examples of this are the Cemetery District, Airport West Business Park, some Blaine County School District properties.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle # \_\_\_\_\_  
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)

- |   |  |   |
|---|--|---|
| <input type="checkbox"/> City Administrator | <input type="checkbox"/> Library             | <input type="checkbox"/> Benefits Committee |
| <input type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor               | <input type="checkbox"/> Streets            |
| <input type="checkbox"/> City Clerk         | <input type="checkbox"/> Planning            | <input type="checkbox"/> Treasurer          |
| <input type="checkbox"/> Building           | <input type="checkbox"/> Police              | _____                                       |
| <input type="checkbox"/> Engineer           | <input type="checkbox"/> Public Works, Parks | _____                                       |
| <input type="checkbox"/> Fire Dept.         | <input type="checkbox"/> P & Z Commission    | _____                                       |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Motion to approve the ordinance and conduct the first reading by title only.

**ADMINISTRATIVE COMMENTS/APPROVAL:**

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

**ACTION OF THE CITY COUNCIL:**

Date 8/26-1st Reading  
9/16/13- 2nd Reading  
10/7/13- 3rd Reading

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agrmt./Order Originals: Record  
Copies (all info.): \_\_\_\_\_  
Instrument # \_\_\_\_\_

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

## HAILEY ORDINANCE NO. 1134

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 13.08.010 OF THE HAILEY MUNICIPAL CODE, BY CLARIFYING THAT WATERING RESTRICTIONS APPLY TO CITY OWNED WATER; BY PROVIDING A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Mayor and City Council of the City of Hailey believe that it is appropriate to restrict usage of water owned by the City, not water owed by third parties which is regulated by the State of Idaho; and

WHEREAS, the Mayor and City Council of the City of Hailey believe that the adoption of this ordinance will promote the health, safety and general welfare of the citizens of the City of Hailey.

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

**Section 1:** Section 13.08.010 of the Hailey Municipal Code is hereby amended by the deletion of the stricken language and by the addition of the underlined language, as follows:

13.08.010 Implementation of municipal water usage conservation measures.

A. Prohibition and Restriction of Municipal Water Usage. The sprinkling or watering of outdoor plantings such as grass, lawns, gardens, ground cover, shrubbery, trees or other landscaping with water owned by the City shall be restricted upon all properties with even numbered street addresses to even numbered calendar days, and upon all properties with odd numbered street addresses to odd numbered calendar days, and shall be prohibited between the hours of ten a.m. and six p.m. daily, except as provided below:

1. Upon written request made by a Water User, the water superintendent may grant an exception to the prohibition and restriction of municipal water usage if one or more of the following conditions are met:

a. The Water User is now using, or will use as condition to the granting of the exception, water conservation irrigation devices such as drip or bubbler style irrigation systems that minimize water evaporation losses; or

b. The Water User's water usage will be for the purpose of sprinkling or watering new plantings for a specified time period.

B. Exclusion. Sprinkling or watering by commercial nurseries on their own sites are specifically excluded from the prohibitions and restrictions of this chapter.

C. Emergency Powers. The Mayor may, upon notification by the Idaho Department of Water Resources of curtailment of City of Hailey water rights, declare an emergency and restrict water use to domestic purposes only.

**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 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 \_\_\_\_\_, 2013.**

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor, City of Hailey

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk

Publish: Idaho Mountain Express



**AGENDA ITEM SUMMARY**

**DATE:** 9-16-2013      **DEPARTMENT:** CDD      **DEPT. HEAD SIGNATURE:** MA

**SUBJECT:** Proceed with second reading of Ordinance No. 1135, a City of Hailey initiated text amending Article 2.2 the Zoning Ordinance, Ordinance No. 532, to revise the definition of City Standards and by amending Article 10.3.8 to require sidewalks in a PUD to be constructed in accordance with City Standards.

**AUTHORITY:**        IAR \_\_\_\_\_       City Ordinance/Code Zoning Ordinance No. 532 (IFAPPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

**Procedural History**

- Planning and Zoning Public Hearing: July 22, 2013
- City Council Public Hearing: August 19, 2013
- First Reading: August 26, 2013
- Second Reading: September 16, 2013
- Third Reading: October 7, 2013

**Summary**

When researching the necessary amendment to Title 18 that are up for discussion in a separate public hearing, staff noticed there sections of the Zoning Ordinance that were not compliant with other sections of the Municipal Code. This ordinance ensures that the Zoning Ordinance is in full compliance with the requirements of Title 18 as they relate to public infrastructure improvements. This is a housekeeping ordinance.

**Planning and Zoning Commission Recommendation**

On July 22, 2013, the Planning and Zoning Commission held a public hearing on the proposed amendments. No public comment was given. After a brief discussion, the Commission voted unanimously to recommend adoption of the amendment to the City Council.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:**

None

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IFAPPLICABLE)**

- |  |  |  |
|--|--|--|
| <input checked="" type="checkbox"/> City Administrator | <input type="checkbox"/> Library                     | <input type="checkbox"/> Benefits Committee        |
| <input checked="" type="checkbox"/> City Attorney      | <input type="checkbox"/> Mayor                       | <input type="checkbox"/> Streets                   |
| <input type="checkbox"/> City Clerk                    | <input checked="" type="checkbox"/> Planning         | <input type="checkbox"/> Treasurer                 |
| <input checked="" type="checkbox"/> Building           | <input type="checkbox"/> Police                      | <input checked="" type="checkbox"/> Sustainability |
| <input type="checkbox"/> Engineer                      | <input type="checkbox"/> Public Works,               | <input type="checkbox"/> _____                     |
| <input type="checkbox"/> Fire Dept.                    | Parks  | <input type="checkbox"/> _____                     |
|  | <input checked="" type="checkbox"/> P & Z Commission |  |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Proceed with 2<sup>nd</sup> Reading of Ordinance No. 1135

---

**ACTION OF THE CITY COUNCIL:**

Date : 8/26 Council approved Ord # 1135, 1<sup>st</sup> reading conducted

City Clerk \_\_\_\_\_

---

**FOLLOW-UP:**

177/13<sup>alio</sup> - 2<sup>nd</sup> reading  
- 3<sup>rd</sup> reading & summary

\*Ord./Res./Agrmt./Order Originals: Record \*Additional/Exceptional Originals to:

Copies (all info.): \_\_\_\_\_

Copies (AIS only)

Instrument # \_\_\_\_\_

**ORDINANCE NO. 1135**

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 2.2 TO REVISE THE DEFINITION OF CITY STANDARDS AND BY AMENDING SECTION 10.3.8 TO REQUIRE SIDEWALKS IN A PUD TO BE CONSTRUCTED IN ACCORDANCE WITH CITY STANDARDS;; 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 City of Hailey has adopted a Mobility Ordinance codified in Title 18 of the Hailey Municipal Code;

WHEREAS, the Zoning Ordinance requires an amendment to be consistent with Title 18 of the Hailey Municipal Code;

WHEREAS, the Hailey City Council has found that the following amendments 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; and

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

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

**Section 1.** The definition of "City Standards" found in Section 2.2 of the Hailey Zoning Ordinance No. 532 is hereby amended by addition of the underlined language and the deletion of the stricken language, as follows:

City Standards. Those standards for street, drainage, water, sewer, wastewater and other infrastructure improvements as set forth in the "City of Hailey Improvement Standard Drawings" and "Standard Specifications" adopted in by ordinance in accordance with the notice and hearing procedures provided in Idaho Code § 67-6509-Section 5 of the Subdivision Ordinance.

**Section 2.** Section 10.3.8 of the Hailey Zoning Ordinance No. 532 is hereby amended by addition of the underlined language and the deletion of the stricken language, as follows

10.3.8 Each PUD shall provide one (1) or more of the following amenities, commensurate with the size and density of the development, and commensurate with the modifications requested by the applicant, to ensure a public benefit:

a. Green Space. All Green Space shall be granted in perpetuity and the PUD agreement shall contain restrictions against any encroachment into the Green Space. Where a

subdivision is involved as part of the PUD approval process, Green Space shall be identified as such on the plat. A long-term maintenance plan shall be provided. Unless otherwise agreed to by the City, the PUD agreement shall contain provisions requiring that property owners within the PUD shall be responsible for maintaining the Green Space for the benefit of the residents or employees of the PUD and/or by the public. Green space shall be set aside in accordance with the following formulas:

1. For residential PUD's: a minimum of .05 acres per residential unit.
2. For non-residential PUD's: a minimum of 15% of the gross area of the

proposed PUD.

b. Active recreational facilities. Active recreational facilities include amenities such as a swimming pool, tennis courts or playing fields, of a size appropriate to the needs of the development. The PUD agreement shall contain provisions requiring that such facilities be maintained in perpetuity, or replaced with another similar recreation facility.

c. Public transit facilities. Public transit facilities include a weather-protected transit stop or transit station, and must be located on a designated transit route.

d. Preservation of Vegetation. Preservation of significant existing vegetation on the site must include the preservation of at least 75% of mature trees greater than 6-inch caliper on the site.

e. Wetlands. Protection of significant wetlands area must constitute at least 10% of the gross area of the proposed PUD.

f. River enhancement. Enhancement of the Big Wood River and its tributaries, must include stream bank restoration and public access to or along the waterway.

g. Community Housing. For residential PUD's, the provision of at least thirty percent (30%) of the approved number of dwelling units or lots as Community Housing Units affordable to households earning between 50% and 120% of the Area Median Income, or the provision of at least twenty percent (20%) as Community Housing Units affordable to households earning less than 50% of the Area Median Income.

h. Real Property. Dedication or conveyance of real property or an interest in real property to the City.

i. Sidewalks. Off-site sidewalk improvements shall be constructed according to City Standards ~~Improvement Drawings~~ and provided (in addition to sidewalk improvements that are required by ordinance adjacent to the subject property) in accordance with the following formulas:

1. For residential PUD's: a minimum of 100 linear feet per residential unit.
2. For non-residential or mixed-use PUD's: a minimum of 100 linear feet

per 1000 square feet of gross floor area.

j. Underground Parking. Underground parking must be provided for at least 50% of the required number of parking spaces in the PUD.

k. Energy Conservation. All principal buildings within the PUD must comply with sustainable building practices, as follows:

For residential PUD's: buildings comply with local "Built Green" standards for certification, federal EPA "Energy Star" program, or Leadership in Energy and Environmental Design - Homes (LEED-H) standards for basic certification.

For non-residential or mixed-use PUD's: buildings comply with Leadership in Energy and Environmental Design (LEED) standards for basic certification.

1. Other Amenities. Other project amenities and/or benefits to the community that are found, by recommendation of the Commission and approval of the Council, to promote the purpose of this Article and the goals and objectives of the Comprehensive Plan.

**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 Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**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 \_\_\_\_\_, 2013.**

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 10/7/2013

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Summary of Hailey Ordinance No. 1135 (Zoning Ordinance Amendment)

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a summary of Hailey Ordinance No. 1135 which revised the definition of City Standards and required sidewalks built as part of a PUD to be constructed in accordance with City Standards.

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS: Caselle # \_\_\_\_\_  
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:

Make a motion to approve the summary of Hailey Ordinance No. 1135.

FOLLOW-UP REMARKS:

## SUMMARY OF HAILEY ORDINANCE NO. 1135

The following is a summary of the principal provisions of Ordinance No. 1135 of the City of Hailey, Idaho, duly passed and adopted October 7, 2013, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 2.2 TO REVISE THE DEFINITION OF CITY STANDARDS AND BY AMENDING SECTION 10.3.8 TO REQUIRE SIDEWALKS IN A PUD TO BE CONSTRUCTED IN ACCORDANCE WITH CITY STANDARDS; 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.

Hailey Ordinance No. 1135 amends Hailey Municipal Code, as follows:

**Section 1** amends Section 2.2 of the Hailey Zoning Ordinance No. 532 to revise the definition of City Standards.

**Section 2** amends Section 10.3.8 of the Hailey Zoning Ordinance No. 532 to require that any off-site sidewalks built as part of a planned unit development to be constructed to City Standards.

**Section 3** provides for a severability clause.

**Section 4** provides for a repealer clause.

**Section 5** provides for an effective date of the ordinance.

The full text of Ordinance No. 1135 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

### CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1135 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1135, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of Ordinance No. 1135.

Dated this 7<sup>th</sup> day of October, 2013.

\_\_\_\_\_  
Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, October \_\_, 2013.



AGENDA ITEM SUMMARY

DATE: 10-7-2013      DEPARTMENT: CDD      DEPT. HEAD SIGNATURE: MA

---

**SUBJECT:** Proceed with 2<sup>nd</sup> Reading of Ordinance No. 1136, amending Hailey's Zoning Ordinance, No. 532, by amending Section 3.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535.

---

**AUTHORITY:**  (IFAPPLICABLE)       IAR \_\_\_\_\_       City Ordinance/Code Zoning Ordinance No. 532

---

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

**Procedural History**

- Planning and Zoning Public Hearing: August 12
- City Council Public Hearing: September 16, 2013
- First Reading: September 16, 2013
- Second Reading: October 7, 2013
- Third Reading: October 21, 2013

**Proposal**

Amend section 3.6 of the Zoning Ordinance, Ordinance No. 532, to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, consistent with the recent amendments to Idaho Code §67-6535.

**Department Comments**

This ordinance ensures that the Zoning Ordinance is in compliance Idaho Code §67-6535, which amended the procedure for reconsideration of a Planning and Zoning Commission or City Council decision. Under the amended law, an applicant or affected person seeking judicial review of compliance with Idaho Code §67-6535 must first seek reconsideration of the final decision of the governing board within fourteen (14) days of the decision. This would mean that if an applicant or affected person does not seek reconsideration within 14 days of the final decision, they waive their right to reconsideration. Reconsideration is a necessary process for appealing a decision to a higher governing board.

**Planning and Zoning Commission Recommendation**

The Hailey Planning and Zoning Commission held a public hearing on the proposed ordinance on August 12, 2013. After brief consideration, the Commission voted unanimously to recommend approval of the amendment.

---

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:**

None

---

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IFAPPLICABLE)**

<input checked="" type="checkbox"/> City Administrator	<input type="checkbox"/> City Clerk	<input type="checkbox"/> Engineer
<input checked="" type="checkbox"/> City Attorney	<input checked="" type="checkbox"/> Building	<input type="checkbox"/> Fire Dept.

- |                                     |                  |                          |                    |
|-------------------------------------|------------------|--------------------------|--------------------|
| <input type="checkbox"/>            | Library          | <input type="checkbox"/> | Benefits Committee |
| <input type="checkbox"/>            | Mayor            | <input type="checkbox"/> | Streets            |
| <input checked="" type="checkbox"/> | Planning         | <input type="checkbox"/> | Treasurer          |
| <input type="checkbox"/>            | Police           | <input type="checkbox"/> | Sustainability     |
| <input type="checkbox"/>            | Public Works,    | <input type="checkbox"/> | _____              |
| <input type="checkbox"/>            | Parks            | <input type="checkbox"/> | _____              |
| <input checked="" type="checkbox"/> | P & Z Commission |                          |                    |

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Proceed with 2<sup>nd</sup> Reading of Ordinance No. 1136.

**ACTION OF THE CITY COUNCIL:**

Date : \_\_\_\_\_

City Clerk \_\_\_\_\_

**FOLLOW-UP:**

\*Ord./Res./Agrmt./Order Originals: Record \*Additional/Exceptional Originals to:

Copies (all info.): \_\_\_\_\_

Copies (AIS only)

Instrument # \_\_\_\_\_

## STAFF REPORT

**TO:** Hailey City Council

**FROM:** Micah Austin, Community Development Director

**RE:** Public Hearing and consideration of a City of Hailey initiated text amendment, amending Hailey's Zoning Ordinance, Ordinance No. 532, by amending Section 3.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535.

**HEARING:** Planning and Zoning: August 12, 2013  
City Council: September 16, 2013

---

### Notice

#### Planning and Zoning

- Notice for the public hearing was published in the Idaho Mountain Express on June 24<sup>th</sup>, 2013 and mailed to public agencies and area media on June 24<sup>th</sup>, 2013.

#### City Council

- Notice for the public hearing was published in the Idaho Mountain Express on August 14<sup>th</sup>, 2013 and mailed to public agencies and area media on August 14<sup>th</sup>, 2013.

### Proposal

Amending Section 3.6 of the Zoning Ordinance, Ordinance No. 532, to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, consistent with the recent amendments to Idaho Code §67-6535.

### Department Comments

This ordinance ensures that the Zoning Ordinance is in compliance Idaho Code §67-6535, which amended the procedure for reconsideration of a Planning and Zoning Commission or City Council decision. Under the amended law, an applicant or affected person seeking judicial review of compliance with Idaho Code §67-6535 must first seek reconsideration of the final decision of the governing board within fourteen (14) days of the decision. This would mean that if an applicant or affected person does not seek reconsideration within 14 days of the final decision, they waive their right to reconsideration. Reconsideration is a necessary process for appealing a decision to a higher governing board.

### Procedural History

A public hearing on the proposed text amendment was held before the Planning and Zoning Commission on August 12, 2013.

### Planning and Zoning Commission Recommendation

The Hailey Planning and Zoning Commission held a public hearing on the proposed ordinance

on August 12, 2013. After brief consideration, the Commission voted unanimously to recommend approval of the amendment.

**Standards of Evaluation**

**Note:** Staff analysis is in lighter type,  
*Italicized words* are words or phrases added by staff for clarification purposes.

**14.6 When evaluating any proposed amendment under this Article, the Commission and Council shall make findings of fact on the following criteria:**

**a. The proposed amendment is in accordance with the Comprehensive Plan;**  
 The Commission should consider how the proposed amendments relate to the various goals of the Comprehensive Plan (listed below for reference). Section 5, Land Use, Population, and Growth Management, has been addressed as being most applicable to this application as seen below. According to Section 5.8.1 of the Comprehensive Plan, this amendment is in accordance with the Plan.

*Goal 5.8.1: To develop clear land use and development procedures that protect the public welfare for all development.*

Comp Plan Goals (2010)	
1.1	Preserve, protect and restore natural resources including waterways, floodplains, wetlands, soil, community forest, native vegetation, green space and wildlife habitat and migration corridors for the benefit of the City and its residents.
1.2	Efficiently use and conserve resources.
1.3	Promote renewable energy production
1.4	Promote energy conservation
1.5	Promote air quality protection
2.1	Reduce the potential threat to loss of life, limb or property and minimize public expenditures due to natural and man-made hazards.
3.1	Assure the protection and preservation of Special Sites, Areas and Features to maintain a strong community identity for future generations
3.2	Protect the residential character of the original Townsite.
4.1	Create and maintain an interconnected system of parks, recreational facilities, trails, green spaces and natural lands in order to provide diverse recreation opportunities for Hailey residents within ¼ mile to ½ mile of the greatest number of residents.
5.1	Retain a compact City comprised a central downtown with surrounding diverse neighborhoods, areas and characteristics as depicted in the Land Use Map:
a.	Main Street Corridor – area of high density commercial, mixed use and residential development.

b.	Downtown - the historic commercial center containing the greatest concentration of commercial, cultural and civic activity. Downtown is the priority area for encouraging higher density commercial and mixed use (commercial and residential) development.
c.	Community Activity Areas – located at the north and south ends of the Main Street Corridor. High density residential is encouraged. Commercial and mixed use (commercial and residential) development is appropriate, but should be subordinate and secondary to the infill of Downtown.
d.	High Density Residential – high density residential infill is encouraged in the area along Main Street and River Street between Downtown and the north and south ends of Main Street.
e.	Residential Buffer – medium density residential, providing a buffer between lower density residential neighborhoods to the east and west and the Main Street District.
f.	Traditional Residential – Density varies depending on the qualities of different neighborhoods, generally density is higher within a ¼ mile of Downtown, Community Activity Areas or Neighborhood Service Centers and connected by transit service.
g.	Neighborhood Service Centers – Small commercial areas serving residents within walking distance (¼ to ½ mile) where commercial use is subordinate to residential uses and to Downtown or Community Activity Areas.
h.	Light Industrial – Areas containing uses important to a variety of business sectors that focus on the production of products and services that are less compatible with, and do not compete with, uses in Downtown and the Community Activity Areas.
i.	Airport Site Redevelopment – a diversity and integration of uses and community assets that complement and support Downtown and are connected within and to existing neighborhoods.
j.	Community Gateways – areas where one has a sense of arrival or sense of being within a part of town distinguished from others providing opportunities for special design considerations.

5.2	Maintain Downtown as the area containing the greatest concentration of commercial, cultural and civic activity and as the priority area for encouraging higher density commercial and mixed use (commercial and residential) development.
5.3	Continue cooperation with the Blaine County and the Friedman Memorial Airport Authority in regional planning efforts to optimally relocate the airport and plan for the long term redevelopment of the site within the city limits to ensure that changes in land use are beneficial to the community of Hailey.
5.4	Protect open space within and surrounding Hailey, including visible ridgelines, undeveloped hillsides and agricultural areas which help define the unique character of Hailey.
5.5	Lessen dependency on the automobile.
5.6	Manage and accommodate population growth by infill development and, when appropriate, minimal expansion by annexation and/or density increases.
5.7	Encourage development at the densities allowed in the Zoning Code.
6.1	Encourage a diversity of economic development opportunities within Hailey
6.2	Encourage abundant, competitive and career-oriented opportunities for young workers.
7.1	Encourage a variety of projects and programs that meet the needs generated by

various segments of the population, especially the needs of those who risk suffering effects of discrimination or are socially or economically disadvantaged.
7.2 Encourage projects and programs that seek to provide opportunities for cultural, cross-cultural and educational enrichment.
8.1 Encourage development that provides opportunities for home ownership and rental homes for individuals and families of all socio-economic levels.
9.1 Plan for the long-term utilities, service and facility needs of the City while minimizing impacts to the greatest extent possible.
10.1. Create and maintain a pedestrian and bicycle-friendly community that provides a safe, convenient and efficient multi-modal transportation system for all Hailey residents.
11.1 Establish a built environment that maintains a human scale, retains interest, aesthetics, encourages various levels of interaction among all members of the community, and enhances the character of different neighborhoods.
12.1 Evaluate whether proposed regulatory or administrative actions may result in an unconstitutional taking of private property.
13.1 Encourage and facilitate the development of school facilities that are planned consistently with the city's other land use policies.
13.2 Ensure the provision of safe, adequate, convenient multi-modal transportation access to all existing and future school sites.

**b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;**

Not applicable

**c. The proposed uses are compatible with the surrounding area; and**

Not applicable

**d. The proposed amendment will promote the public health, safety and general welfare.**

The proposed amendment is intended to give applicants a clear understanding of the law.

**Motion Language**

**Approval:**

**Council**

Motion to approve the amendments to Hailey's Zoning Ordinance, Ordinance No. 532, by amending Section 3.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535 finding that the amendments are in accordance with the Comprehensive Plan, that essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare and adopt Ordinance \_\_\_\_ and authorize the mayor to conduct the first reading by title only.

**Denial:**

**Council**

Motion to deny proposed amendments to Hailey's Zoning Ordinance, Ordinance No. 532, by amending Section 3.6, finding that \_\_\_\_\_ [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

**Continuation:**

Motion to continue the public hearing upon the proposed amendments to Hailey's Zoning Ordinance, Ordinance No. 532, by amending Section 3.6, to \_\_\_\_\_ [the Commission should specify a date].

**Table:**

Motion to table the proposed amendments to Hailey's Zoning Ordinance, Ordinance No. 532, by amending Section 3.6, to a later date: \_\_\_\_\_.

**HAILEY ORDINANCE NO. 1136**

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING SECTION 3.6 TO REQUIRE RECONSIDERATION FOR ALLEGED FAILURE TO IDENTIFY COMPLIANCE OR NONCOMPLIANCE WITH EXPRESS APPROVAL STANDARDS OR EXPLAIN COMPLIANCE OR NONCOMPLIANCE WITH DECISION CRITERIA; 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, Idaho Code § 67-6535 has been amended to provide that a failure by a municipality to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of the same, on appeal;

WHEREAS, Idaho Code § 67-6535 has been amended to provide that an applicant or affected person seeking judicial review of compliance with Idaho Code § 67-6535 must first seek reconsideration of the final decision within fourteen (14) days;

WHEREAS, the Hailey City Council has found that the following amendments 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; and

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

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

**Section 1.** Section 3.6 of the Hailey Zoning Ordinance No. 532 is hereby amended by addition of the underlined language and by deletion of the stricken language, as follows:

**3.6 APPEALS.**

An applicant or affected person party aggrieved by ~~may appeal~~ a final decision of the Administrator, Hearing Examiner or Commission ~~may appeal in writing any final decision by~~ filing a written Notice of Appeal with the Hailey City Clerk within fifteen (15) days from the date of the decision. An appeal of a final decision by the Administrator or the Hearing Examiner shall be heard by the Commission. An appeal of a final decision by the Commission or an appeal of a decision heard on appeal by the Commission shall be heard by the Council. Any appeal shall not be a de novo hearing and shall be based solely on the record before the

Administrator, Hearing Examiner or Commission, as the case may be. The record shall consist of all the documents presented to Administrator, Hearing Examiner or Commission (such as the application, supporting documents, letters and studies), the minutes of any meeting and the findings of fact and conclusions of law. The Appellant may also have a verbatim transcript of the hearing before the Hearing Examiner or Commission prepared to be submitted on appeal. The cost of the preparation of the record and transcript shall be paid by the Appellant. The appeal shall specifically state the decision appealed, the issues to be raised on appeal and reasons for the appeal. If no appeal is filed within the fifteen (15) day period, the decision shall be deemed final.

At the time of the filing of the Notice of Appeal, the Appellant shall pay the costs of preparing the transcript and record estimated by the Administrator and the fee for filing an appeal, as established by ordinance. The Administrator will prepare one original transcript (if applicable) and record and 8 copies of the transcript (if applicable) and record. If the costs of preparing the transcript and record exceed the estimated costs paid by the Appellant, the Appellant shall pay the difference before a hearing on the appeal is heard.

Once the transcript and record have been prepared, the Administrator shall schedule a hearing on appeal with the Commission or Council for the next available hearing date. If the Appellant desires to file a brief in support of the appeal, the Appellant shall file an original brief and 8 copies of the brief with the Administrator five business days before the scheduled appeal hearing. If the brief is not timely filed, the Commission and the Council may elect not to consider the brief. The Appellant and Appellant's representative and a City representative shall only be entitled to present argument before the Commission or Council.

Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria or standards shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of the same, on appeal. An applicant or affected person who seeks judicial review of a decision by the Administrator, Hearing Examiner, Commission or Council must first seek reconsideration of the final decision within fourteen (14) days. A request for reconsideration shall be made to the person or body who has the authority to make a final decision but does not have to be made to a person or body who makes a recommendation. A request for reconsideration must allege and identify specific deficiencies in the decision. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of an appeal or judicial review unless the process required herein has been followed. The time to file an appeal or to seek judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.

**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 Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**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 \_\_\_\_\_, 2013.**

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk

**AGENDA ITEM SUMMARY**

**DATE:** 10-7-2013      **DEPARTMENT:** CDD      **DEPT. HEAD SIGNATURE:** MA

---

**SUBJECT:** Proceed with 2<sup>nd</sup> reading of Ordinance 1137 amending Hailey's Subdivision Ordinance, No. 831, by amending section 2.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535.

---

**AUTHORITY:**  IAR \_\_\_\_\_  City Ordinance/Code: Subdivision Ordinance No. 821 (IFAPPLICABLE)

---

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

**Procedural History**

- Planning and Zoning Public Hearing: August 12
- City Council Public Hearing: September 16, 2013
- First Reading: September 16, 2013
- Second Reading: October 7, 2013
- Third Reading: October 21, 2013

**Proposal**

Amend section 2.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535.

**Department Comments**

This ordinance ensures that the Subdivision Ordinance is in compliance Idaho Code §67-6535, which amended the procedure for reconsideration of a Planning and Zoning Commission or City Council decision. Under the amended law, an applicant or affected person seeking judicial review of compliance with Idaho Code §67-6535 must first seek reconsideration of the final decision of the governing board within fourteen (14) days of the decision. This would mean that if an applicant or affected person does not seek reconsideration within 14 days of the final decision, they waive their right to reconsideration. Reconsideration is a necessary process for appealing a decision to a higher governing board.

**Planning and Zoning Commission Recommendation**

The Hailey Planning and Zoning Commission held a public hearing on the proposed ordinance on August 12, 2013. After brief consideration, the Commission voted unanimously to recommend approval of the amendment.

---

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:**

None

---

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IFAPPLICABLE)**

<input checked="" type="checkbox"/> City Administrator	<input type="checkbox"/> Engineer	<input type="checkbox"/> Library
<input checked="" type="checkbox"/> City Attorney	<input type="checkbox"/> Fire Dept.	<input type="checkbox"/> Mayor
<input type="checkbox"/> City Clerk		<input checked="" type="checkbox"/> Planning
<input checked="" type="checkbox"/> Building		<input type="checkbox"/> Police

Public Works,  
Parks  
 P & Z Commission

Benefits Committee  
 Streets  
 Treasurer  
 Sustainability  
\_\_\_\_\_  
\_\_\_\_\_

---

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**

Proceed with 2<sup>nd</sup> reading of Ordinance 1137.

---

**ACTION OF THE CITY COUNCIL:**

Date : \_\_\_\_\_

City Clerk \_\_\_\_\_

---

**FOLLOW-UP:**

\*Ord./Res./Agrmt./Order Originals: Record \*Additional/Exceptional Originals to:

\_\_\_\_\_  
Copies (all info.):

Instrument # \_\_\_\_\_

Copies (AIS only)

## STAFF REPORT

**TO:** Hailey City Council

**FROM:** Micah Austin, Community Development Director

**RE:** Public Hearing and consideration of a City of Hailey initiated text amendment, amending Hailey's Subdivision Ordinance, Ordinance No. 821, by amending section 2.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535.

**HEARING:** Planning and Zoning: August 12, 2013  
City Council: September 16, 2013

---

### Notice

#### Planning and Zoning

- Notice for the public hearing was published in the Idaho Mountain Express on June 24<sup>th</sup>, 2013 and mailed to public agencies and area media on June 24<sup>th</sup>, 2013.

#### City Council

- Notice for the public hearing was published in the Idaho Mountain Express on August 14<sup>th</sup>, 2013 and mailed to public agencies and area media on August 14<sup>th</sup>, 2013.

### Proposal

Amend Hailey's Subdivision Ordinance, Ordinance No. 821, by amending section 2.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, consistent with the recent amendments to Idaho Code §67-6535.

### Department Comments

This ordinance ensures that the Subdivision Ordinance is in compliance Idaho Code §67-6535, which amended the procedure for reconsideration of a Planning and Zoning Commission or City Council decision. Under the amended law, an applicant or affected person seeking judicial review of compliance with Idaho Code §67-6535 must first seek reconsideration of the final decision of the governing board within fourteen (14) days of the decision. This would mean that if an applicant or affected person does not seek reconsideration within 14 days of the final decision, they waive their right to reconsideration. Reconsideration is a necessary process for appealing a decision to a higher governing board.

### Procedural History

A public hearing on the proposed text amendment was held before the Planning and Zoning Commission on August 12, 2013.

### Planning and Zoning Commission Recommendation

The Hailey Planning and Zoning Commission held a public hearing on the proposed ordinance on August 12, 2013. After brief consideration, the Commission voted unanimously to recommend approval of the amendment.

**Standards of Evaluation**

**Note:** Staff analysis is in lighter type,  
*Italicized words* are words or phrases added by staff for clarification purposes.

**14.6 When evaluating any proposed amendment under this Article, the Commission and Council shall make findings of fact on the following criteria:**

**a. The proposed amendment is in accordance with the Comprehensive Plan;**  
 The Commission should consider how the proposed amendments relate to the various goals of the Comprehensive Plan (listed below for reference). Section 5, Land Use, Population, and Growth Management, has been addressed as being most applicable to this application as seen below. According to Section 5.8.1 of the Comprehensive Plan, this amendment is in accordance with the Plan.

*Goal 5.8.1: To develop clear land use and development procedures that protect the public welfare for all development.*

Comp Plan Goals (2010)	
1.1	Preserve, protect and restore natural resources including waterways, floodplains, wetlands, soil, community forest, native vegetation, green space and wildlife habitat and migration corridors for the benefit of the City and its residents.
1.2	Efficiently use and conserve resources.
1.3	Promote renewable energy production
1.4	Promote energy conservation
1.5	Promote air quality protection
2.1	Reduce the potential threat to loss of life, limb or property and minimize public expenditures due to natural and man-made hazards.
3.1	Assure the protection and preservation of Special Sites, Areas and Features to maintain a strong community identity for future generations
3.2	Protect the residential character of the original Townsite.
4.1	Create and maintain an interconnected system of parks, recreational facilities, trails, green spaces and natural lands in order to provide diverse recreation opportunities for Hailey residents within ¼ mile to ½ mile of the greatest number of residents.
5.1	Retain a compact City comprised a central downtown with surrounding diverse neighborhoods, areas and characteristics as depicted in the Land Use Map:
a.	Main Street Corridor – area of high density commercial, mixed use and residential

development.
b. Downtown - the historic commercial center containing the greatest concentration of commercial, cultural and civic activity. Downtown is the priority area for encouraging higher density commercial and mixed use (commercial and residential) development.
c. Community Activity Areas – located at the north and south ends of the Main Street Corridor. High density residential is encouraged. Commercial and mixed use (commercial and residential) development is appropriate, but should be subordinate and secondary to the infill of Downtown.
d. High Density Residential – high density residential infill is encouraged in the area along Main Street and River Street between Downtown and the north and south ends of Main Street.
e. Residential Buffer – medium density residential, providing a buffer between lower density residential neighborhoods to the east and west and the Main Street District.
f. Traditional Residential – Density varies depending on the qualities of different neighborhoods, generally density is higher within a ¼ mile of Downtown, Community Activity Areas or Neighborhood Service Centers and connected by transit service.
g. Neighborhood Service Centers – Small commercial areas serving residents within walking distance (¼ to ½ mile) where commercial use is subordinate to residential uses and to Downtown or Community Activity Areas.
h. Light Industrial – Areas containing uses important to a variety of business sectors that focus on the production of products and services that are less compatible with, and do not compete with, uses in Downtown and the Community Activity Areas.
i. Airport Site Redevelopment – a diversity and integration of uses and community assets that complement and support Downtown and are connected within and to existing neighborhoods.
j. Community Gateways – areas where one has a sense of arrival or sense of being within a part of town distinguished from others providing opportunities for special design considerations.

5.2 Maintain Downtown as the area containing the greatest concentration of commercial, cultural and civic activity and as the priority area for encouraging higher density commercial and mixed use (commercial and residential) development.
5.3 Continue cooperation with the Blaine County and the Friedman Memorial Airport Authority in regional planning efforts to optimally relocate the airport and plan for the long term redevelopment of the site within the city limits to ensure that changes in land use are beneficial to the community of Hailey.
5.4 Protect open space within and surrounding Hailey, including visible ridgelines, undeveloped hillsides and agricultural areas which help define the unique character of Hailey.
5.5 Lessen dependency on the automobile.
5.6 Manage and accommodate population growth by infill development and, when appropriate, minimal expansion by annexation and/or density increases.
5.7 Encourage development at the densities allowed in the Zoning Code.
6.1 Encourage a diversity of economic development opportunities within Hailey
6.2 Encourage abundant, competitive and career-oriented opportunities for young workers.

7.1	Encourage a variety of projects and programs that meet the needs generated by various segments of the population, especially the needs of those who risk suffering effects of discrimination or are socially or economically disadvantaged.
7.2	Encourage projects and programs that seek to provide opportunities for cultural, cross-cultural and educational enrichment.
8.1	Encourage development that provides opportunities for home ownership and rental homes for individuals and families of all socio-economic levels.
9.1	Plan for the long-term utilities, service and facility needs of the City while minimizing impacts to the greatest extent possible.
10.1.	Create and maintain a pedestrian and bicycle-friendly community that provides a safe, convenient and efficient multi-modal transportation system for all Hailey residents.
11.1	Establish a built environment that maintains a human scale, retains interest, aesthetics, encourages various levels of interaction among all members of the community, and enhances the character of different neighborhoods.
12.1	Evaluate whether proposed regulatory or administrative actions may result in an unconstitutional taking of private property.
13.1	Encourage and facilitate the development of school facilities that are planned consistently with the city's other land use policies.
13.2	Ensure the provision of safe, adequate, convenient multi-modal transportation access to all existing and future school sites.

**b. Essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services;**

Not applicable

**c. The proposed uses are compatible with the surrounding area; and**

Not applicable

**d. The proposed amendment will promote the public health, safety and general welfare.**

The proposed amendment is intended to give applicants a clear understanding of the law

**Motion Language**

**Approval:**

**Council**

Motion to approve the amendments to Hailey's Subdivision Ordinance, Ordinance No. 821, by amending Section 2.6 to require reconsideration for alleged failure to identify compliance or noncompliance with express approval standards or explain compliance or noncompliance with decision criteria, as required by the recent amendments to Idaho Code §67-6535. finding that the amendments are in accordance with the Comprehensive Plan, that essential public facilities and services are available to support the full range of proposed uses without creating excessive additional requirements at public cost for the public facilities and services, that the proposed uses are compatible with the surrounding area, and that the proposed amendment will promote the public health, safety and general welfare and adopt Ordinance \_\_\_\_ and authorize the mayor to conduct the first reading by title only.

**Denial:**

**Council**

Motion to deny proposed amendments to Hailey's Subdivision Ordinance, Ordinance No. 821, by amending Section 2.6, finding that \_\_\_\_\_ [the Council should cite which standards are not met and provided the reason why each identified standard is not met].

**Continuation:**

Motion to continue the public hearing upon the proposed amendments to Hailey's Subdivision Ordinance, Ordinance No. 821, by amending Section 2.6, to \_\_\_\_\_ [the Commission should specify a date].

**Table:**

Motion to table the proposed amendments to Hailey's Subdivision Ordinance, Ordinance No. 821, by amending Section 2.6, to a later date: \_\_\_\_\_.

**HAILEY ORDINANCE NO. 1137**

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S SUBDIVISION ORDINANCE, ORDINANCE NO. 821, BY AMENDING SECTION 2.6 TO REQUIRE RECONSIDERATION FOR ALLEGED FAILURE TO IDENTIFY COMPLIANCE OR NONCOMPLIANCE WITH EXPRESS APPROVAL STANDARDS OR EXPLAIN COMPLIANCE OR NONCOMPLIANCE WITH DECISION CRITERIA; 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, Idaho Code § 67-6522 has been amended to provide that a failure by a municipality to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of the same, on appeal;

WHEREAS, Idaho Code § 67-6522 has been amended to provide that an applicant or affected person seeking judicial review of compliance with Idaho Code § 67-6522 must first seek reconsideration of the final decision within fourteen (14) days;

WHEREAS, the Hailey City Council has found that the following amendments 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; and

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

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

**Section 1.** Section 2.6 of the Hailey Zoning Ordinance No. 821 is hereby amended by addition of the underlined language and by deletion of the stricken language, as follows:

2.6 APPEALS.

An applicant or affected person party aggrieved by may appeal a final decision of the Administrator, Hearing Examiner or Commission ~~may appeal in writing any final decision by filing a written~~ Notice of Appeal with the Hailey City Clerk within fifteen (15) days from the date of the decision. An appeal of a final decision by the Administrator or the Hearing Examiner shall be heard by the Commission. An appeal of a final decision by the Commission or an appeal of a decision heard on appeal by the Commission shall be heard by the Council. Any appeal shall not be a de novo hearing and shall be based solely on the record before the

Administrator, Hearing Examiner or Commission, as the case may be. The record shall consist of all the documents presented to Administrator, Hearing Examiner or Commission (such as the application, supporting documents, letters and studies), the minutes of any meeting and the findings of fact and conclusions of law. The Appellant may also have a verbatim transcript of the hearing before the Hearing Examiner or Commission prepared to be submitted on appeal. The cost of the preparation of the record and transcript shall be paid by the Appellant. The appeal shall specifically state the decision appealed, the issues to be raised on appeal and reasons for the appeal. If no appeal is filed within the fifteen (15) day period, the decision shall be deemed final.

At the time of the filing of the Notice of Appeal, the Appellant shall pay the costs of preparing the transcript and record estimated by the Administrator and the fee for filing an appeal, as established by ordinance. The Administrator will prepare one original transcript (if applicable) and record and 8 copies of the transcript (if applicable) and record. If the costs of preparing the transcript and record exceed the estimated costs paid by the Appellant, the Appellant shall pay the difference before a hearing on the appeal is heard.

Once the transcript and record have been prepared, the Administrator shall schedule a hearing on appeal with the Commission or Council for the next available hearing date. If the Appellant desires to file a brief in support of the appeal, the Appellant shall file an original brief and 8 copies of the brief with the Administrator five business days before the scheduled appeal hearing. If the brief is not timely filed, the Commission and the Council may elect not to consider the brief. The Appellant and Appellant's representative and a City representative shall only be entitled to present argument before the Commission or Council.

Any aggrieved party is entitled to judicial review of any preliminary plat or final plat decision by the Council in accordance with the provisions of Idaho Code §§ 67-5201, *et seq.*

Failure to file an appeal of a preliminary plat decision will constitute a waiver of all issues which could be reviewed during an appeal of a preliminary plat decision.

Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria or standards shall be grounds for invalidation of an approved permit or site-specific authorization, or denial of the same, on appeal. An applicant or affected person who seeks judicial review of a decision by the Administrator, Hearing Examiner, Commission or Council must first seek reconsideration of the final decision within fourteen (14) days. A request for reconsideration shall be made to the person or body who has the authority to make a final decision but does not have to be made to a person or body who makes a recommendation. A request for reconsideration must allege and identify specific deficiencies in the decision. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of an appeal or judicial review unless the process required herein has been followed. The time to file an appeal or to seek judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.

**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 Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**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 \_\_\_\_\_, 2013.**

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor

Attest:

\_\_\_\_\_  
Mary Cone, City Clerk