

**AGENDA ITEM SUMMARY**

**DATE:** 4/15/13 **DEPARTMENT:** Legislative **DEPT. HEAD SIGNATURE:** Heather Dawson

**SUBJECT:**

2<sup>nd</sup> Reading Ordinance 1124 – Arts and Historical Preservation Commission Merger  
Municipal Code Amendment Section 2.24 and 2.32

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

Ordinance was approved for 1<sup>st</sup> reading on April 1, 2013.

A minor error has been corrected in the attached Ordinance, on Page 4, in Section 2.24.040.A.8 there were two references to Section 24.24.070. These references have been corrected to read Section 2.24.070

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:**

Caselle # \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_ 6 \_\_\_\_\_  
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:**

Hold 2<sup>nd</sup> Reading of Ordinance 1124, as corrected.

**FOLLOW-UP REMARKS:\***

## HAILEY ORDINANCE NO. 1124

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING CHAPTER 2.24 OF THE HAILEY MUNICIPAL CODE BY REPEALING CHAPTER 2.24 AND REPLACING IT WITH A NEW CHAPTER 2.24 TO CREATE A HAILEY ARTS AND HISTORIC PRESERVATION COMMISSION AND TO PROVIDE FOR THE ORGANIZATION OF AND THE POWERS AND DUTIES OF THE HAILEY ARTS AND HISTORIC PRESERVATION COMMISSION; REPEALING CHAPTER 2.32 OF THE HAILEY MUNICIPAL CODE; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, Chapter 2.24 of the Hailey Municipal Code established the Hailey Historic Preservation Commission and Chapter 2.32 established the Hailey Arts Commission;

WHEREAS, Chapters 2.24 and 2.32 provided, among other things, for the organization and powers and duties of the Hailey Historic Preservation Commission and Hailey Arts Commission;

WHEREAS, it has been difficult to maintain membership on one of the commissions and the Hailey City Council believes it would be prudent to consolidate the commissions and establish a Hailey Arts and Historic Preservation Commission; and

WHEREAS, the Hailey City Council shall establish a Hailey Arts and Historic Preservation Commission and provide for the organization of and the powers and duties of the Hailey Arts and Historic Preservation Commission.

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

**Section 1.** Chapter 2.24 of the Hailey Municipal Code is amended by the repeal of Chapter 2.24 and the addition of a new Chapter 2.24, as follows:

### HAILEY ARTS AND HISTORIC PRESERVATION COMMISSION

2.24.010 Purpose. The purpose of this ordinance is to ensure the arts are valued as an integral part of Hailey, to enhance the culture of the Hailey community by providing leadership, advocacy and support for the arts, to promote the historic, architectural, archeological and cultural heritage, features and qualities of Hailey, and to promote the general welfare of the public of the City of Hailey through the identification, evaluation, designation and protection of those buildings, sites, areas, structures and objects, which reflect such significant heritage, features and qualities in the City of Hailey, the state or the nation.

2.24.020 Definitions. For the purposes of this chapter, the capitalized terms have the following meanings:

“City” shall mean the City of Hailey, Idaho.

“Commission” shall mean the Hailey Arts and Historic Preservation Commission.

“Historic Easement” shall mean any easement, restriction, covenant or condition running with the land designed and designated to preserve, maintain and enhance all or part of the existing state of places of historical, architectural, archeological, educational or cultural significance.

“Historic Property” shall mean any building, structure, area or site that is significant in the history, architecture, archaeology or culture of the city, the state or the nation.

“Historic Preservation” shall mean the research, documentation, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archaeology or culture of the City, this state, its communities or the nation.

2.24.030 Commission.

A. Establishment. The Hailey Arts and Historic Preservation Commission for the City of Hailey is hereby established. The Commission shall consist of not more than nine (9) but not less than five (5) voting members.

B. Qualifications of Members. Each member shall be appointed by the Mayor with the consent of the Hailey City Council, shall have been a resident of Blaine County for two (2) years prior to appointment to the Commission and shall be a resident of the City of Hailey at the time of appointment, except that two (2) members may reside outside the corporate limits of the City, but within the City’s Area of Impact, and/or be employed as a full-time employee or own a business or enterprise devoted to the promotion of the arts or Historic Preservation. Each member must remain a resident of the City, or, in the case of the City’s Area of Impact, within the impact area, or be employed or own a business or enterprise devoted to the promotion of the arts or Historic Preservation during the term of his or her membership on the Commission. All members of the Commission shall have a demonstrated interest, competence, or knowledge in the arts or in history or Historic Preservation. The Hailey Mayor and City Council shall endeavor to appoint at least two (2) members with professional training and experience in the arts and at least two (2) members with professional training and experience in Historic Preservation or in the disciplines of architecture, history, architectural history, urban planning, archaeology, engineering, law or other related disciplines.

C. Terms. 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. All subsequent appointments shall be made for three-year terms. Commission members may be reappointed to serve additional terms. Vacancies shall be filled in the same manner as original appointments and the appointee shall serve for the remainder of the unexpired term.

D. Officers. The Commission shall elect officers from among the members of the Commission. The chairperson shall preside at meetings of the Commission. The vice chairperson shall, in the absence of the chairperson, perform the duties of the chairperson.

E. Conduct of Meetings. A majority of the full Commission shall constitute a quorum for the transaction of business and a majority of the quorum present shall be sufficient to take any action.

All meetings of the Commission shall be open to the public, and follow the requirements of Idaho's open meeting laws. The Commission shall keep minutes and other appropriate written records of its resolutions, proceedings, and actions.

F. Recommending Body. The Commission shall only have the power to make recommendations, upon a majority vote of its attending members, to the Hailey Mayor and City Council, the Hailey Planning & Zoning Commission, the Hailey Parks and Lands Board, the Hailey Library Board and other commission and boards established by the City.

G. Expenses. The members of the Commission may be reimbursed by the City for necessary expenses incurred in connection with their duties, if the City has made prior appropriations for such expenses. The Commission may recommend to the Hailey City Council, within the limits of the city's funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the Commission.

H. Conflict of interest. Each member of the Commission shall be governed by the Ethics in Government Act, Idaho Code §§ 59-701 *et seq.*, as amended.

2.24.040. Powers, duties and responsibilities. The Commission shall have the following powers, duties and responsibilities:

A. Powers.

1. Unless otherwise provided by law, the Commission shall have the power to make whatever rules or bylaws are necessary for the execution of its duties as set forth in this Ordinance. Rules of procedure and bylaws adopted by the Commission shall be available for public inspection.
2. Conduct a survey of local Historic Properties.
3. Recommend the acquisition of fee and lesser interests in Historic Properties, including adjacent or associated lands, by purchase, bequests or donation.
4. Recommend methods and procedures necessary to preserve, restore, maintain and operate Historic Properties under the ownership or control of the City.
5. Recommend the lease, sale, other transfer or disposition of Historic Properties, subject to rights of public access and other covenants and in a manner that will preserve the property.
6. With the approval of the Hailey City Council, contract with the state or federal government, or any of its agencies, or with any other organization.
7. Cooperate with the federal, state and local governments in the pursuance of the objectives of Historic Preservation.
8. Make recommendations in the planning processes undertaken by the city, county, state or federal government or any agency of these entities, including making a recommendation

pursuant to Section 2.24.070 of the Hailey Municipal Code. In performing this power, the Commission is authorized to appoint a subcommittee of three (3) members of the Commission to make any recommendations under Section 2.24.070 of the Hailey Municipal Code.

9. Recommend ordinances and otherwise provide information for the purposes of Historic Preservation in the City.

10. Promote and conduct an educational and interpretive program on Historic Preservation and Historic Properties in the City.

11. Commission members, employees or agents of the Commission may enter private property, buildings, or structures in the performance of its official duties provided the Commission or its agent receives express consent of the owner or occupant thereof.

12. Review nominations of properties to the national register of historic places for properties within the City's jurisdiction.

B. Duties and Obligations.

1. The Commission shall perform any and all of its obligations for the creation and maintenance of public art pursuant to Chapter 3.08 of the Hailey Municipal Code,.

2. The Commission shall perform any and all of its obligations for the designation of a Historic Property pursuant to Section 2.24.070 of the Hailey Municipal Code and Idaho Code §§67-4614 and 67-4615, as amended.

3. The Commission shall promote activities that support public awareness and understanding of the public art collection in Hailey, including but are not limited to walking tours, printed materials, lectures, website development and website maintenance.

4. The Commission shall promote activities that support public awareness and understanding of Historic Preservation in Hailey, including but are not limited to walking tours, printed materials, lectures, website development and website maintenance

5. The Commission shall, in consultation with City Department Heads, prepare an annual report/plan to the Hailey City Council on all upcoming and in progress art projects, as well as the condition and maintenance requirements on all completed works of art in the public art program. This annual report/plan shall be reviewed and adopted in coordination with the budget process on an annual basis by the Hailey City Council. The report/plan shall be amended and re-approved through the year as necessary. Approvals of funding for the report will be enacted by the Hailey City Council as a component of the approved budget.

2.24.050 Funding.

A. For the purpose of providing funds for the Commission, the City may:

1. Provide funds from current revenues; and/or
2. Receive and expend monies from any other available source or sources.

B. Funds received may be dedicated for certain purposes or projects, in which case, the Commission shall segregate such funds to ensure that the funds are spent on the specified purpose(s) or project(s) and that the funds are not commingled. Funds received for the Commission may be accumulated from year to year and need not be expended during any one fiscal year. Any unexpended monies appropriated by the Hailey City Council shall be deemed surplus to be budgeted and appropriated for the subsequent year as provided by law.

2.24.060 Acquisition of Property and Historic Easements. All lands, buildings, structures, sites or areas acquired by funds appropriated by the City, shall be acquired in the name of the City and such Historic Property shall be maintained by or under the supervision and control of the City. The City may also acquire, by purchase or donation, Historic Easements wherever and to the extent the Hailey City Council determines that the acquisition will be in the public interest.

2.24.070 Designation of Historic Property.

A. Historic Properties may be designated by the Hailey City Council upon recommendation of the Commission. Designation shall be by ordinance upon finding that the proposed property meets one (1) or more of criteria 1 through 4 and meets criteria 5:

1. Historic, Cultural or Educational:
  - a. Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation; or is associated with the life of a person significant in the past;
  - b. Is the site of an historic event with significant effect upon society; or
  - c. Exemplifies the cultural, political, economic, social, educational or historic heritage of the community.
2. Architectural, Engineering Importance:
  - a. Portrays the environment in an era of history characterized by a distinctive architectural style;
  - b. Embodies those distinguishing characteristics of an architectural-type or engineering specimen;
  - c. Is the work of a designer whose individual work has significantly influenced the development of Hailey; or
  - d. Contains elements of design, detail, materials or craftsmanship which represent a significant innovation.
3. Geographic Importance:
  - a. By being part of or related to a street, square, park or other distinctive area, should be developed or preserved according to a plan based on historic, cultural or architectural motif; or

b. Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or city.

4. Archeological Importance:

a. Has yielded or may be likely to yield, information in pre-history or history.

5. Criteria established for inclusion in the National Register of Historic Places.

B. The Commission either on its own initiative or upon the request of the Hailey City Council, or upon request of an owner of property proposed to be designated, may recommend the designation of Historic Property following the procedures contained in Idaho Code §67-4615, as amended.

C. The investigation and report by the Commission shall include but not be limited to addressing the property's historical, architectural, archeological and cultural significance; suitability for preservation or restoration; educational value; cost of acquisition, restoration, maintenance, operation or repair; possibilities for adaptive or alternative use of the property; appraised value; and, administrative and financial responsibility of any person or organization willing to underwrite all or a portion of such costs pursuant to Idaho Code §67-4614, as amended.

D. The ordinance designating a Historic Property shall require a waiting period to be observed prior to demolition, material alteration, remodeling, relocation or change in use, and shall provide guidelines for a suitable sign or marker on or near the property indicating that it has been so designated. The ordinance shall provide that during the waiting period the City and/or the Commission may negotiate with the owners and with any other parties in an effort to find a means of preserving the property pursuant to Idaho Code §67-4616, as amended.

E. The Hailey City Council, in order to promote the preservation and restoration of any Historic Property may, upon the recommendation of the Commission, exempt properties designated as a Historic Property from the application of the City building codes upon compliance with the criteria for exemption set forth in the codes and upon a finding that non-exemption would prevent or seriously hinder the preservation or restoration of the Historic Property. Upon rescission of a historic designation, any code exemption shall be revoked effective the date of rescission.

**Section 2.** Chapter 2.32 of the Hailey Municipal Code is hereby repealed.

**Section 3. 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 4. Repealer Clause.** All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

**Section 5. 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 6<sup>th</sup> day of May, 2013.

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Fritz X. Haemmerle, Mayor

ATTEST:

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Mary Cone, City Clerk

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