


## STAFF REPORT

**TO:** Hailey Planning and Zoning Commission  
**FROM:** Beth Robrahn, Planning Director   
**RE:** Zoning Ordinance Amendment – Article 7

**HEARING:** December 7, 2009

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### Note

Staff comments are in lighter type.

### Notice

Notice for the public hearing on November 16, 2009 was published in the Idaho Mountain Express and mailed to public agencies and area media on October 28, 2009. The public hearing was continued on the record on November 16 to December 7, 2009.

### Proposal

Attached are amendments proposed by the City to Article 7, Supplementary Location and Bulk Requirements of the Zoning Ordinance. The amendments would clarify that Accessory Structures with a floor area of 120 square feet or less are required to be setback a minimum of 3 feet from either the side and/or rear property line, or the primary structure.

The problem we are faced with and are trying to address with this amendment is that people put up sheds without a permit but the Zoning Code requires setbacks and people do not know what those setbacks are. Even if we required a permit people would still put up sheds without knowing they need a permit. The intent of this amendment is to build some flexibility into the Code to provide access for firefighting without moving to requiring permits for sheds less than 120 square feet. Without adding some flexibility into the code we would be forced to go out and tell people they have to move their sheds which no one at the city likes to do and no one in the community likes to hear.

After much discussion this spring and summer between the Planning, Building and Fire Departments the proposed language was developed as a compromise. The logic being that a firefighter can get through a 3 ft space, whether it is between the shed and the fence or the shed and the house, in order to access a structure that is on fire.

In a perfect world the Fire Chief would want 12 feet of cumulative fire break between buildings in order to minimize the possibility of fire propagating to other properties. The compromise language does not address the issue of fire propagating. Because we have to have consistent standards (we can not have standards that forces one property owner to do something based on what their neighbor did before them), the only way to obtain that 12 feet of fire break would be to require a 12 foot setback from property line and primary structure. However, a 12 foot setback is clearly unreasonable and we would be faced with the same issue of people putting up sheds without knowing what those setback requirements are and would not achieve any flexibility to be able to work around the fact that we have these setback requirements but no effective way to implement them.

### **Standards of Evaluation**

The Commission shall, at a minimum, consider the following three criteria in making its recommendation to the Council:

**1. The relationship of the proposed amendments to the Hailey Comprehensive Plan.**

The Commission should consider how the proposed amendments relate to the various policies and implementation items of the Comprehensive Plan, particularly the following:

*5.8 Due Process and Public Input*

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

*3. Policy: Develop and maintain land use regulatory procedures that are efficient, consistent and predictable, but that provide flexibility to deal with unique situations.*

**2. 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;**

The proposed amendments will not create excessive additional requirements at public cost for public facilities and services.

**3. The proposed uses are compatible with the surrounding area.**

NA

**4. Will be in accordance with the welfare of the general public.**

The proposed amendments will clarify inconsistencies in the current standards and will enable more efficient, consistent and predictable application of sidewalk and landscape requirements.

### **Summary**

The Commission shall hold a public hearing and determine whether the proposed amendments are in accordance with the applicable standards of evaluation.

The Commission shall move, with findings on the three standards of evaluation noted above, to recommend to the Council that the proposed amendments be granted or denied, or that modified amendments be granted.

**Recommended Motion Language**

Approval:

Motion to recommend the City Council approve the proposed amendments to Article 7, Supplementary Location and Bulk Requirements of the Zoning Ordinance [**as written or as modified**], finding that the amendments are in accordance with the Comprehensive Plan, 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; the proposed uses are compatible with the surrounding area; and the proposed amendment will promote the public health, safety and general welfare.

Denial:

Motion to recommend the City Council deny the proposed amendments to Article 7, Supplementary Location and Bulk Requirements of the Zoning Ordinance, finding that \_\_\_\_\_ [the Commission 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 amendment to Article 7 to \_\_\_\_\_ [the Commission should specify a date].

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

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING HAILEY'S ZONING ORDINANCE, ORDINANCE NO. 532, BY AMENDING ARTICLE 7, SUPPLEMENTARY LOCATION AND BULK REQUIREMENTS, TO CLARIFY SETBACK REQUIREMENT FOR ACCESSORY STRUCTURES WITH A FLOOR AREA OF 120 SQUARE FEET OR LESS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, the Hailey City Council has found that the following amendment to the Hailey Zoning Ordinance will generally conform with the Hailey Comprehensive Plan;

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

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

- a. Except as otherwise provided herein, Accessory Structures with a floor area of 120 square feet or less are ~~allowed to be setback a minimum of three (3) feet from the side and/or rear property line~~ required to be setback a minimum of 3 feet from either: 1) the side and/or rear property line, or 2) the Principle Building and any other Accessory Structure.
  1. On Normal Corner Lots, Accessory Structures with a floor area of 120 square feet or less shall have a minimum side yard setback of two thirds (2/3) the front yard setback requirement for the zoning district in which the lot is located.
  2. ~~Except~~ Within the Business District, in the case where an alley is located along the side or rear lot line of the property, Accessory Structures with a floor area of 120 square feet or less shall be setback a minimum of a-six (6) feet from the alley~~foot setback is required for Accessory Structures with a floor area of 120 square feet or less.~~
  3. ~~Within the Business District, Accessory Structures may be built to the property line.~~
- b. Accessory Structures with a floor area of 120 square feet or less and are located a

minimum of three (3) feet from the side and/or rear property line shall have a maximum bearing wall height of eight feet and a maximum building height of 12 feet.

- e. ~~Accessory Structures with a floor area of 120 square feet or less shall comply with all applicable Building Code requirements.~~

Section 2. Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

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

Section 4. This ordinance shall be in full force and effect from and after the required three (3) readings, approval, and publication according to law.

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

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

Attest:

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Mary Cone, City Clerk