

ARTICLE III ADMINISTRATION

3.1 GENERAL.

For the purpose of carrying out the provisions of this Ordinance, an Administrator, Commission and Hearing Examiner are hereby created, and the City adopts procedures for the administration of applications under this Ordinance.

3.2 ADMINISTRATOR.

The Council shall designate an Administrator to administer this Ordinance. The Administrator may be provided with the assistance of such other persons as the Council may direct. The duties of the Administrator shall include, but not be limited to:

3.2.1 Advise interested citizens of the Zoning Ordinance provisions.

3.2.2 Inform the news media regarding land use and zoning matters of public interest.

3.2.3 Aid applicants in the preparation of required forms and permit applications. Where practical, related permits may be combined for the convenience of the applicant.

3.2.4 Recommend enforcement of this Ordinance in accordance with Article XV of this Ordinance.

3.2.5 Receive, file, and transmit to the Hearing Examiner, Commission and Council all applications, past history, transcripts, and other communications on which they must act. Advise the Hearing Examiner, Commission and the Council of pertinent provisions of the Ordinance regarding proposals.

3.2.6 Maintain permanent and current records of applications, zoning changes, variances, conditional use permits, planned unit developments, and of the hearings and action thereon.

3.2.7 Inspect all filed plats pursuant to the Hailey City Subdivision Ordinance.

3.2.8 Maintain a current Official Zoning Map and interpret boundaries of zoning districts.

3.2.9 Provide a liaison between the Commission and Council.

3.2.10 Make interpretations of the Zoning Ordinance.

3.3 PLANNING AND ZONING COMMISSION.

The Council shall establish bylaws for the Hailey Planning and Zoning Commission for the purpose of providing direction to the members of the Commission in the performance of their duties.

3.3.1 Number of Members, Appointment, Compensation, Etc.

The membership and appointment of the Commission shall be governed by the provisions of Idaho Code §67-6504 as amended, and applicable ordinances of the City of Hailey.

The Commission shall consist of no more than five (5) voting members. Each member shall be appointed by the Mayor and confirmed by the Council. The Council, in creating the Commission, shall provide that the areas and interests within its jurisdiction are broadly represented on the Commission. Each member shall have been a resident of the City for the two (2) years prior to appointment to the Commission and shall be a resident of the City at the time of appointment, except that one (1) member may reside outside the corporate limits of the City, but within the City's Area of Impact, in which case the member shall have been a resident of Blaine County for the two (2) years prior to appointment.

Each member must remain a resident of the City, or, in the case of the City's Area of Impact, within the impact area, during the term of his or her membership on the Commission.

Each member shall serve for a term of three (3) years. The terms shall be staggered in groups of two (2), two (2), and one (1), respectively, and shall be filled in the same manner as original appointments, but replacements shall serve only until the expiration of the original term.

No person may serve more than 2 full consecutive terms without specific concurrence by two-thirds (2/3) of the Council adopted by motion and recorded in the minutes.

3.3.2 Causes for Removal from the Commission.

Commission members may be removed from the Commission for cause by a majority vote of the Council. Causes for removal of members from the Commission by the Mayor and Council may include, but are not limited to:

- a. Failure to maintain reasonable familiarity with state statutes and local ordinances and rules affecting the Commission, or failure to abide by those rules.
- b. Failure to disclose a conflict of interest as defined under Idaho Code.
- c. When a member becomes incapacitated for the office for a protracted period, or moves from the City of Hailey or the Area of Impact or becomes for some other reason no longer qualified for office and fails to resign.
- d. Failure to attend three consecutive regular meetings, or three of any seven consecutive meetings, without the recorded consent of the Chair, shall be construed by the Chair as grounds for removal. The Chair would then recommend removal of the Commissioner to the Council.
- e. Other good cause.

3.3.3 Resignation, Vacation of Office, Appointment of New Members.

Members proposing to resign shall give reasonable notice of such intent to the Mayor. When a member dies or resigns, or when the term of a member is 90 days from its scheduled expiration, the Hailey Planning and Zoning Administrator will immediately notify the Mayor that a vacancy either exists or could exist. The Administrator shall then advertise the vacancy in the official newspaper of the City for a period of not less than one month, and shall receive letters of interest and résumés from all individuals interested in service on the Commission prior to recommending qualified individuals to the Council. The Mayor shall consider relative experience, years in the community, communication skills, dedication to the community and the location of the applicant's residence in selecting individuals for appointment. A majority vote of the Council is required to confirm the appointment before the appointment is effective.

3.4 HEARING EXAMINER

3.4.1 Qualifications and Designation of Hearing Examiners

Hearing Examiners shall be professionally trained or licensed planners, engineers, or architects, pursuant to Idaho Code §67-6520, as amended. Hearing Examiners shall have experience in the field of planning and zoning or in the field of architecture. The Mayor shall appoint and the Council shall confirm the Hearing Examiners. The Council shall determine compensation and other contractual terms with Hearing Examiners, and shall have the power, subject to any contractual terms, to dismiss any Hearing Examiner.

3.4.2 Referral of Applications to Hearing Examiners

a. The types of applications that shall be referred to the Hearing Examiner are as follows:

1. Design Review of projects located within the Light Industrial (LI) District
2. Design Review of projects qualifying for approval by Consent Agenda pursuant to Zoning Ordinance, Section 6A.3.(a)
3. Conditional Use Permits
4. Variances
5. Design Review of new Single Family Dwellings, Duplexes, Accessory Dwelling Units, Accessory Structures (requiring a building permit), and additions that add floor area equal to or greater than 50% of the original structure, within the Townsite Overlay District.
6. Those rezone applications determined by the Administrator to have no substantial impact on adjacent properties or on the community at large.
7. Short Plats pursuant to Section 3.4 of the Subdivision Ordinance.

The Administrator and Chair of the Commission, jointly, shall have discretion and authority to refer certain of the above listed application types to the Commission.

- b. Applications which otherwise shall be referred to the Hearing Examiner, may be heard by the Commission when such applications are submitted concurrently with other applications which shall be heard by the Commission, as determined by the Planning and Zoning Administrator and Chair of the Planning and Zoning Commission, jointly.
- c. If no Hearing Examiner is appointed or there is a vacancy in the position of Hearing Examiner, the applications determined and defined herein shall automatically be referred to the Commission.

3.4.3 Notice, Hearing and Records

Except as otherwise provided in this Chapter, the requirement for notice, hearing, and records for an application before the Hearing Examiner shall be as provided in this Ordinance and State law for the hearing of such applications before the Commission.

3.4.4 Duties of the Administrator

Upon receipt of an application which shall be referred to the Hearing Examiner, the Administrator or other Administrator's staff shall review the application for completeness. The Administrator may require additional information to be submitted by the applicant pursuant to provisions of this Ordinance where such information is deemed necessary to further the evaluation by the Hearing Examiner. Upon finding that the application is complete, the Administrator shall certify the same. The Administrator shall refer the certified application and all information attached thereto to the Hearing Examiner. The certification of an application by the Administrator shall be considered the effective date of the application, at which time the rights of the applicant shall vest.

3.4.5 Conduct of Hearings

The Hearing Examiner shall review all information supplied by the Administrator prior to the hearing. The hearing shall be conducted in accordance with this Ordinance and applicable State law upon a finding that notice was adequate and in compliance with requirements contained in this Ordinance and State law. Reasonable time limits may be established at the outset of the hearing, and both the applicant and other members of the public shall be given an opportunity to be heard. Hearings may be continued in accordance with this Ordinance. All hearings shall be tape recorded. A transcribable record of all hearings before the Hearing Examiner shall be kept and maintained pursuant to Idaho Code by the Planning and Zoning Department.

3.4.6 Standards and Criteria

In hearing an application, the Hearing Examiner shall apply the standards and other criteria that are applicable under this Ordinance, other ordinances, the Comprehensive Plan and State law.

3.4.7 Hearing Examiner's Findings and Decision

- a. After a hearing is closed, the Hearing Examiner shall prepare a written document (hereinafter referred to as "findings of fact, conclusions of law and decision") pursuant to Idaho Code Section 67-6535(b), as amended.
- b. The findings of fact, conclusions of law and decision as prepared by the Hearing Examiner shall be signed and filed with the Administrator and shall be available to the applicant and the public no more than forty-five (45) days after the close of the hearing.

3.4.8 Appeals from Decisions of the Hearing Examiner

The findings of fact, conclusions of law and decision of the Hearing Examiner may be appealed to the Commission in the manner prescribed by Section 3.6 of this Ordinance, provided a notice of appeal is timely filed as required by that Section.

3.5 CONFLICT OF INTEREST

A member or employee of the Council or Commission or a Hearing Examiner shall not participate in any proceeding or action when the member or employee, or their employer, business partner, business associate, or any person related to them by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered. A knowing violation of the Section shall be a misdemeanor.

3.6 APPEALS

A party aggrieved by a final decision of the Administrator, Hearing Examiner or Commission may appeal in writing any final decision by filing a 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.

3.7 MEDIATION

- a. The mediation of land use decisions will be governed by the provisions in Idaho Code §67-6510, as amended, and this ordinance.
- b. If mediation occurs after a final decision, any resolution of differences through mediation must be the subject of another public hearing, consistent with the type of hearing which resulted in the original decision, before the decision-making body.
- c. The Council shall act on the mediation recommendations within 60 days of the receipt of the recommendation. The mediation process shall not be part of the official record regarding consideration of the application upon which the mediation is based.

3.8 APPLICATIONS

- 3.8.1 Applications for permits or approvals under this Ordinance shall be submitted to the Administrator upon forms furnished by the City along with applicable fees established by ordinance. The original application shall be kept on file at City Hall.
- 3.8.2 The certification of an application under this Ordinance by the Administrator shall be considered the effective date of the application, at which time the rights of the applicant shall vest. The Administrator shall certify the date when an application is deemed complete for the purpose of beginning the review process.

- 3.8.3 The Administrator shall issue a determination whether the application is complete within 30 days of the receipt of the application. If an application is incomplete but following receipt of additional materials is found to be complete by the Administrator, the Administrator shall issue a certification within 15 days. The Administrator shall, upon certification of an application as complete, schedule review of an application at the earliest available meeting date of the Council, Commission or Hearing Examiner, as the case may be. Unless the Council, Commission or Hearing Examiner finds that additional time is needed, findings of fact, conclusions of law and decision/ recommendation shall be issued and mailed within 30 days of the decision/recommendation.
- 3.8.4 Applications for public school facilities shall be given priority consideration and shall be scheduled for the earliest reasonable meeting of the appropriate reviewing body, regardless of the timing of its submission relative to other applications which are not related to public school facilities, pursuant to Idaho Code §67-6519, as amended.
- 3.8.5 Fast Track
Applications for projects providing Community Housing Unit(s), projects eligible to be certified as an ENERGY STAR project, projects eligible to be certified according to the Leadership in Energy and Environmental Design (LEED) Green Building Rating System or projects within the Central Business District may be eligible for Fast Track status and scheduled for the earliest reasonable meeting of the appropriate reviewing body, regardless of its submission relative to other applications (except for public school facilities). In no case shall an application for which legal notice has been published be rescheduled to allow for priority scheduling of another application subject to the Fast Track process.

Fast Track status may be given provided:

- a. The applicant submits the regular application form and fee, plus an additional nonrefundable fee for Fast Track status, as established by ordinance.
- b. The applicant submits the following conceptual plans:
 1. Site plan showing structures, parking, and circulation;
 2. Utilities plan showing location and size of water and sewer and location of other utilities;
 3. Preliminary drainage plan;
 4. Preliminary landscaping plan;
 5. Preliminary lighting plan;
 6. Conceptual building elevations.
- c. The applicant attends a pre-application meeting, following department head review of the conceptual plans submitted. The attendees at the pre-application meeting shall include the applicant and the applicant's representatives, and representatives from applicable departments (e.g. Planning and Zoning, Building, Public Works, Engineering, Fire and Police departments).

- d. The applicant submits all of the complete plans as set forth on the applicable City application form, and as specified by the department heads at the pre-application meeting, by the deadline(s) agreed upon at the pre-application meeting.
- e. If items are not submitted by the deadline(s) set forth at the pre-application meeting, a one-time late fee will be charged to continue Fast Track status. Failure to meet deadline(s) more than once will cause the application to lose the Fast Tract status and will be scheduled as set forth in subsection 3.8.3 above.
- f. Notwithstanding the expedited review established herein, all notice requirements established by ordinance and state law shall be followed.
- g. In the event the applicant seeks a building permit in conjunction with an application that complies with the Fast Track status, the Building Official shall review the building permit application at the earliest reasonable time, regardless of its submission relative to other applications, provided the applicant has submitted the applicable building permit fees and additional Fast Track status fees as established by ordinance, has submitted complete documents for review by the Building Official, and other applicable departments, and the application complies with all applicable codes, ordinances and laws.

(Ord. 1021, §1, 12/24/2008)