

HAILEY ORDINANCE NO. 1201

AN ORDINANCE OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO, AMENDING TITLE 10 OF THE HAILEY MUNICIPAL CODE BY ADDING CHAPTER 10.44 PROHIBITING THE USE OF HAND HELD MOBILE ELECTRONIC DEVICES WHILE DRIVING EXCEPT UNDER CERTAIN CONDITIONS, PROVIDING FOR AN INFRACTION FINE OF \$100.00 AND PROVIDING FOR EXCEPTIONS; BY PROVIDING FOR A SEVERABILITY CLAUSE; BY PROVIDING FOR A REPEALER CLAUSE; AND BY PROVIDING FOR AN EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, texting and communicating on wireless devices while driving a motor vehicle can create hazards for residents and visitors; and

WHEREAS, the Hailey City Council finds it is in the interest of public safety to restrict such activity.

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

Section 1. Title 10 of the Hailey Municipal Code is amended by the addition of a new Chapter 10.44 as follows:

10.44.010 PURPOSE: Drivers who communicate on hand held wireless devices such as cell phones while driving cause a distraction, which create hazards to motorists, passengers and pedestrians. Restricting the use of hand held wireless devices by drivers will promote public safety.

10.44.020 DEFINITIONS:

"Actual Physical Control" shall mean being in the driver's position of the motor vehicle with the motor running or with the motor vehicle moving.

"Hands-Free Wireless Telephone" shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a conversation without the use of either hand. A Hands-Free Wireless Telephone may include a cellular phone, provided the phone is mounted to the interior of the motor vehicle and is not handheld.

"Mobile Electronic Device" shall mean any handheld portable electronic equipment capable of providing wireless or data communication between two or more persons or of providing amusement, including but not limited to a cellular phone, text messaging device, paging device, personal digital assistant, laptop computer, video or music player or digital photographic device, but does not include an amateur radio, any audio equipment or any equipment installed in a motor vehicle for the purpose of providing navigation or communication

for essential public services, emergency assistance to the operator of the motor vehicle, or video entertainment to the passengers in the rear of the motor vehicle.

“Use” shall mean holding a Mobile Electronic Device while talking or listening to another person on the telephone, text messaging, or sending an electronic message via a Mobile Electronic Device. Use shall not include the use of a Hands-Free Wireless Telephone.

10.44.030 USE OF WIRELESS COMMUNICATION DEVICES: The Use of a Mobile Electronic Device by a person in Actual Physical Control of a motor vehicle on a public road or highway within the city limits of Hailey shall be unlawful except as otherwise provided in Section 10.44.040.

10.44.040 EXCEPTIONS: The prohibitions set forth in this chapter shall not be applicable to the following drivers:

- A. An operator of a motor vehicle who uses a Hands-Free Wireless Telephone.
- B. A law enforcement officer, a member of a paid or volunteer fire department, or an operator of an authorized emergency vehicle while in the actual performance of their official duties during a service call or an operator of public service vehicle during the performance of an essential public service function;
- C. An operator of a motor vehicle who is parked in a motor vehicle in a parking space or who is pulled off the side of the street and outside of a traffic lane;
- D. The operator of a motor vehicle using a Mobile Electronic Device while in Actual Physical Control of motor vehicle with one hand-on the steering wheel, only if the operator has reason to fear for his life or safety, or believes that a criminal act may be perpetrated against himself or another person; or
- E. The operator of a motor vehicle using a Mobile Electronic Device while in Actual Physical Control of motor vehicle with one hand-on the steering wheel to report to appropriate authorities a fire, a traffic accident, a serious road hazard or medical or hazardous materials emergency, or to report the operator of another motor vehicle who is driving in a reckless, careless or otherwise unsafe manner or who appears to be driving under the influence of alcohol or drugs. The telephone records of a Mobile Electronic Device or the testimony or written statements from appropriate authorities receiving such calls shall be deemed sufficient evidence of the existence of all lawful calls made under this paragraph.

10.44.050 PENALTY: A person violating any provision of this chapter shall be guilty of an infraction, punishable by a fixed penalty of one hundred dollars (\$100.00). No motor vehicle points or automobile insurance eligibility points shall be assessed for any such offense.

Section 2. 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 3. Repealer Clause. All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 4. 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 8th day of August, 2016.

Fritz X. Haemmerle, Mayor

ATTEST:

Mary Cone, City Clerk