

HAILEY ORDINANCE NO. 1115

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, AMENDING SECTION 12.04.010 OF THE HAILEY MUNICIPAL CODE, TO ADD THE DEFINITION OF PLANTING STRIP; AMENDING SECTION 12.04.020 TO ALLOW OBSTRUCTION OF A PUBLIC STREET, ALLEY, SIDEWALK OR PATHWAY IF APPROVED BY A SPECIAL USE PERMIT; AMENDING 12.04.060 TO PROHIBIT THE OPERATION OF A MOTOR VEHICLE ON OR OVER A PLANTING STRIP; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, under Idaho law, the City of Hailey is obligated to keep streets open and free from nuisances but has the power to limit traffic and encroachments on city streets;

WHEREAS, Idaho Code § 52-101 generally defines a nuisance as an unlawful obstruction of a street;

WHEREAS, in the exercise of its police powers, the City of Hailey has the supervisory control over city streets and exclusive authority to regulate traffic on city streets, alleys, sidewalks and pathways;

WHEREAS, the City of Hailey wishes to prohibit traffic over planting strips which have been installed between curbs and sidewalks;

WHEREAS, the City of Hailey has allowed temporary street closures upon the issuance of a special events permit pursuant to Chapter 12.14 of the Hailey Municipal Code but Section 12.04.020 prohibits the obstruction of any city street, sidewalk or pathway in any manner;

WHEREAS, before a special events permit allowing for a street closure is issued, there must be evidence establishing, *inter alia*, that there will be safe and orderly movement of traffic, that emergency response will not be interrupted and that the special event will not cause injury to person or property; and

WHEREAS, the City of Hailey believes it is in the public health, safety and welfare of its residents to allow limited street closures for temporary purposes provided the street closure is permitted with the issuance of a special events permit.

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

Section 1. Section 12.04.010 of the Hailey Municipal Code is amended by addition of the definition "Planting Strip," as follows

"Planting Strip" shall mean that area for vegetative growth such as grass, bushes or trees, or for non-vegetative cover such as bark, gravel and similar materials, located between any curb and public sidewalk within the City of Hailey and within a city or state right-of-way, regardless

whether the right-of-way has been dedicated, granted by deed, easement or license, or created by implied or prescriptive easement. For the purpose of this definition, Planting Strip shall not include improved driveways which cross a Planting Strip, provided the improved driveway has been installed as part of public infrastructure project or has received an encroachment permit pursuant to Chapter 12.16 of the Hailey Municipal Code.

Section 2. Section 12.04.020 of the Hailey Municipal Code is amended by addition of the underlined language and by the deletion of the stricken language, as follows:

12.04.020 Obstructions. It shall be unlawful for any person or entity to obstruct, injure or damage any public sidewalk, public pathway, ~~or public street or alley~~ in any manner, unless the obstruction is permitted by a special events permit under Chapter 12.14 of the Hailey Municipal Code.

Section 3. Section 12.04.060 of the Hailey Municipal Code is amended by addition of the underlined language and by the deletion of the stricken language, as follows

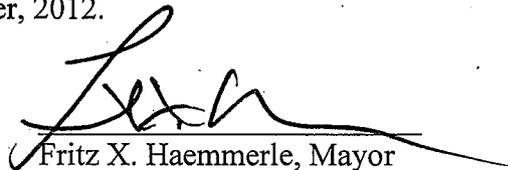
12.04.060 Motorized Vehicles. It shall be unlawful for any person or entity to drive or operate a motorized vehicle, including a motorcycle, on or over a Public Sidewalk, ~~or Public Pathway,~~ or Planting Strip, except for equipment used for snow removal.

Section 4. 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.

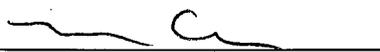
Section 5. Repealer Clause. All Ordinances or parts thereof in conflict herewith are hereby repealed and rescinded.

Section 6. 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 5th day of November, 2012.


Fritz X. Haemmerle, Mayor

ATTEST:


Mary Cone, City Clerk

Publish: Idaho Mountain Express Summary Nov 7, 2012



AGENDA ITEM SUMMARY

DATE: 11/5/2012

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: _____

SUBJECT:

Amendment of Chapter 12.04 (Public Sidewalks, Pathways and Streets and Snow Removal) and summary

Ord 1115

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

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing an ordinance which amends Chapter 12.04 of the Hailey Municipal Code. This ordinance is intended to address two pressing issues. First, as you know, the Woodside Boulevard Reconstruction Project includes a planting strip. We would like to limit the passage of cars over the planting strip. Eventually, the strip will be planted and irrigated. We would like to prevent damage to the irrigation system which can be caused by cars passing over the planting strip and protect the vegetative cover. Second, our special events permit ordinance allows for the closure of public streets if certain standards are met. As presently stated, Chapter 12.04 prohibits closure of streets. The attached ordinance addresses both of these issues. There is urgency to address both of these issues now. Consequently, I would recommend that the council waive the three readings. I am also attaching a summary of this ordinance.

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 Hailey Ordinance No. 1115, to waive the three readings, to read by title only, to authorize the mayor to sign, and to approve the summary of Hailey Ordinance No. 1115.

FOLLOW-UP REMARKS:

11/5/2012 - approved Ordinance, waived 3 readings, read once by title only. Approved summary. Publish Nov 7, 2012.