

AGENDA ITEM SUMMARY

DATE: 8-18-14

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Proposed ordinance amendment to restrict dates for the use of fireworks

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

At the last Council meeting, there was a discussion about restricting the dates on the use of fireworks to July 1 through July 5 and December 31 through January 1. I am attaching an ordinance which adopts these time restrictions in a new Chapter 9.12. This ordinance uses terminology established in the Idaho Code for fireworks. Please note that I suggest repealing two subsections of our Municipal Code found in Chapter 5.24. Those subsections address the use of fireworks but are found in the business license section. I have now placed those subsections in the new Chapter 9.12.

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 Ordinance No. 1160, to conduct the first reading and to read by title only.

FOLLOW-UP REMARKS:

8/18 - Council approved ord No. 1160 & Mayor conducted 1<sup>st</sup> reading by title only.  
9/15 - 2<sup>nd</sup> Reading  
10/6 - 3<sup>rd</sup> Reading & summary

HAILEY ORDINANCE NO. 1160

AN ORDINANCE OF THE CITY OF HAILEY AMENDING CHAPTER 5.24 OF THE HAILEY MUNICIPAL CODE BY REPEALING SECTIONS 5.24.095 AND 5.24.096; BY AMENDING TITLE 9 OF THE HAILEY MUNICIPAL CODE, TO CREATE A NEW CHAPTER 9.16 TO REGULATE THE TIME OF USE OF FIREWORKS; BY PROVIDING FOR A REPEALER CLAUSE; BY PROVIDING FOR A SEVERABILITY CLAUSE AND BY PROVIDING AN EFFECTIVE DATE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

WHEREAS, Idaho Code § 39-2606 provides, in pertinent part, that nonaerial common fireworks may be sold at retail and used beginning at midnight June 23, and ending at midnight July 5 and beginning at midnight December 26 and ending at midnight January 1;

WHEREAS, Idaho Code § 50-310 provides that a municipality is empowered to prevent the discharge of firearms, rockets, powder, fireworks or other dangerous, combustible or explosive material in the streets, lots, grounds, alleys or in and about the vicinity of any building and punish violators therefor;

WHEREAS, the Mayor and the City Council of the City of Hailey wish to amend the Hailey Municipal Code to reduce the risk of fire, to ensure the safety of Hailey residents and to reduce the impact on the peace and quiet of Hailey neighborhoods by limiting the time to use fireworks within the City of Hailey between July 1 and July 5 and on December 31 and January 1; and

WHEREAS, the Mayor and City Council find that the amendments to title 9 will further the public health, safety and general welfare.

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

**Section 1.** Sections 5.24.095 and 5.24.096 are repealed in their entirety.

**Section 2.** Title 9 of the Hailey Municipal Code is hereby amended by the addition of a new Chapter 9.16, as follows:

Chapter 9.16

FIREWORKS

Sections:

- 9.12.010 Purpose
- 9.12.020 Definitions
- 9.12.030 General Prohibitions
- 9.12.040 Liability of Parents or Guardians
- 9.12.050 Time Restrictions
- 9.12.060 Penalty

9.12.010 Purpose. It is the purpose of this chapter to promote the public health, safety and general welfare of the citizens of Hailey by regulating the time to use nonaerial common fireworks. The time restrictions are intended to reduce the fire hazards and to decrease the impact on the peace and quiet of the community and its residents associated with the use of fireworks.

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

"Fireworks" shall mean any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. Fireworks include items classified as common or special fireworks by the United States bureau of explosives or contained in the regulations of the United States department of transportation and designated as UN 0335 1.3G or UN 0336 1.4G. The term "fireworks" shall not include any automotive safety flares, toy guns, toy cannons, caps or other items designed for use with toy guns or toy cannons, party poppers, pop-its or other devices which contain twenty-five hundredths (.25) of a grain or less of explosive substance.

"Fire Chief" shall mean an individual appointed by the Hailey Mayor to act in the official capacity of fire chief in the City of Hailey or his/her designated representatives.

"Nonaerial Common Fireworks" shall mean any fireworks such as ground spinners, fountains, sparklers, smoke devices or snakes designed to remain on or near the ground and not to travel outside a fifteen (15) foot diameter circle or emit sparks or other burning material which land outside a twenty (20) foot diameter circle or above a height of twenty (20) feet. Nonaerial common fireworks do not include firecrackers, jumping jacks, or similar products.

"Public Display" shall mean a display of Fireworks permitted by the City of Hailey in accordance with Idaho Code § 39-2605, as amended.

9.12.030 General Prohibitions. It shall be unlawful for any person, except in compliance with this chapter to:

- A. Alter any Fireworks;
- B. Throw any Fireworks from, into or at a moving vehicle or at any person;
- C. Sell or use any Fireworks any time not permitted under this chapter;
- D. Use Fireworks in any area that constitutes a severe fire threat based on vegetative conditions during the current fire season as determined by the Fire Chief.

9.12.040 Liability of Parents or Guardians. The parents, guardians or other persons having custody or control of a minor shall be liable for damage caused by the use of Fireworks by the minor.

9.12.050 Time Restrictions. Except as otherwise provided herein, it is unlawful for any person to discharge or use Fireworks within the Hailey city limits.

A. Nonaerial Common Fireworks may be used for the periods of time beginning at midnight July 1 and ending at midnight July 5 and beginning at midnight December 30 and ending at midnight January 1.

B. A Public Display of Fireworks is allowed provided it has received in advance a permit from the City of Hailey.

9.12.060 Penalty. Any person who violates the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor and be subject to a fine not exceeding three hundred dollars, imprisonment in the county jail for a period not exceeding thirty days or both such fine and imprisonment.

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

**Section 4.** 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.** 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 \_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Fritz X. Haemmerle, Mayor  
City of Hailey

ATTEST:

\_\_\_\_\_  
Mary Cone, City Clerk

AGENDA ITEM SUMMARY

DATE: 10/6/2014

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Summary of Hailey Ordinance No. 1160 (Fireworks ordinance)

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a summary of Hailey Ordinance No. 1160 which added a new chapter to the Hailey Municipal Code.

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 the summary of Hailey Ordinance No. 1160.

FOLLOW-UP REMARKS:

## SUMMARY OF HAILEY ORDINANCE NO. 1160

The following is a summary of the principal provisions of Ordinance No. 1160 of the City of Hailey, Idaho, duly passed and adopted October 6, 2014, by the City Council and Mayor of the City of Hailey:

AN ORDINANCE OF THE CITY OF HAILEY AMENDING CHAPTER 5.24 OF THE HAILEY MUNICIPAL CODE BY REPEALING SECTIONS 5.24.095 AND 5.24.096; BY AMENDING TITLE 9 OF THE HAILEY MUNICIPAL CODE, TO CREATE A NEW CHAPTER 9.16 TO REGULATE THE TIME OF USE OF FIREWORKS; BY PROVIDING FOR A REPEALER CLAUSE; BY PROVIDING FOR A SEVERABILITY CLAUSE AND BY PROVIDING AN EFFECTIVE DATE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Hailey Ordinance No. 1160 amends Hailey Municipal Code, as follows:

**Section 1** repeals Sections 5.24.095 and 5.24.096 in their entirety and are included in Chapter 9.16 of the Hailey Municipal Code.

**Section 2** amends Title 9 of the Hailey Municipal Code, to add a new Chapter 9.16, entitled Fireworks, to a) create a Purpose section, b) create definitions for fireworks, fire chief, nonaerial common fireworks and public display, c) establish prohibitions for the use of fireworks, d) establish liability of parents or guardians for damage caused by the use of fireworks by a minor, e) establish time restrictions for the use nonaerial common fireworks only during the periods of time beginning at midnight July 1 and ending at midnight July 5 and beginning at midnight December 30 and ending at midnight January 1, and f) establish a penalty making it a misdemeanor for a violation of Chapter 9.16, punishable by a fine not exceeding three hundred dollars, imprisonment in the county jail for a period not exceeding thirty days or both such fine and imprisonment.

**Section 3** provides for a repealer clause.

**Section 4** provides for a severability clause.

**Section 5** provides for an effective date of the ordinance.

The full text of Ordinance No. 1160 is available at Hailey City Hall at 115 South Main Street, Suite H, Hailey, Idaho 83333 and will be provided to any citizen upon request during regular business hours.

### CERTIFICATION OF CITY ATTORNEY

I, the undersigned Attorney at Law, as attorney for the City of Hailey, Idaho, hereby certify that I have read the foregoing summary of Ordinance No. 1160 of the City of Hailey, that I have compared it to the full text of Ordinance No. 1160, and that in my opinion, the above summary is true and complete and provides adequate notice to the public of the contents of said Ordinance.

Dated this \_\_\_ day of October, 2014.

Ned Williamson, Hailey City Attorney

Publish: Idaho Mountain Express, October \_\_, 2014

