



BLAINE COUNTY ORDINANCE NO. 2019-01

AN ORDINANCE OF BLAINE COUNTY, IDAHO, AMENDING AND REPLACING BLAINE COUNTY CODE, TITLE 6, CONCERNING ROADS AND PUBLIC WAYS, PROVIDING FOR REQUIRED PERMITS, TEMPORARY ROAD CLOSURES, PROHIBITIONS AGAINST PARKING AND PLACEMENT OF MATERIAL IN PUBLIC RIGHTS-OF-WAY, ROADSIDE VENDING, AND OPERATING MOTORIZED VEHICLES ON DESIGNATED RIGHT-OF-WAY EASEMENTS, CRIMINAL PENALTIES AND ENFORCEMENT, A SEVERABILITY CLAUSE, AND AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Board of County Commissioners (Board) is empowered pursuant to Idaho Code Section 31-714, to pass all ordinances and rules and make regulations, not repugnant to law, necessary for the carrying into effect or discharging the powers and duties conferred by the laws of the state of Idaho, and such as are necessary or proper to provide for the safety, promote the health and prosperity, improve the peace and good order, comfort and convenience of the County and the inhabitants thereof, and for the protection of property therein; and

WHEREAS, it is the duty of the Board to oversee, manage, improve and/or maintain certain highways, roads, streets, and public rights-of-way within Blaine County; and

WHEREAS, the Board has adopted the Blaine County Road Right-of-Way Management Plan by resolution to update the County's various policies, standards, and requirements for managing Blaine County highways, roads, streets, and public rights-of-way; and

WHEREAS, updating the Blaine County Road Right-of-Way Management Plan is intended to provide increased administrative efficiency, overall clarity, improved public awareness about the manner in which the County performs its road responsibilities and a basis for enforcement of regulations pertaining to use of and encroachment upon County rights-of-way; and

WHEREAS, the Blaine County Road Right-of-Way Management Plan is intended to be a comprehensive reference, however an ordinance is still required to set forth basic legal requirements and prohibitions; and

WHEREAS, the Board has held several public hearings to consider the merits of this ordinance and the Blaine County Road Right-of-Way Management Plan, including multiple opportunities for public comment; and

WHEREAS, the Board finds that this ordinance is in accordance with the following specific sections of the Blaine County Comprehensive Plan: Section 13, Public Services, Facilities and Utilities, and Section 15, Road System.

NOW, THEREFORE, be it ordained by the Board of County Commissioners of Blaine County, Idaho:

SECTION 1. That the Blaine County Code, Title 6, is hereby amended and replaced to read as follows:

ROADS AND PUBLIC WAYS

6-1-1: PERMITS

6-1-1-1: PERMIT REQUIRED:

6-1-1-2: FEES, CONTRIBUTIONS, AND BONDS:

6-1-1-3: ACCESS AND INSPECTION:

6-1-1-4: APPEAL:

6-1-1-5: PENALTIES:

6-1-2: TEMPORARY CLOSURE OF PUBLIC ROADS:

6-1-3: PARKING AND PLACEMENT OF MATERIAL IN PUBLIC RIGHT-OF-WAY PROHIBITED:

6-1-4: ROADSIDE VENDING PROHIBITED:

6-1-5: MOTORIZED VEHICLES PROHIBITED ON DESIGNATED RIGHT-OF-WAY EASEMENTS:

6-1-6: CRIMINAL PENALTY; CIVIL ENFORCEMENT:

6-1: PERMITS

6-1-1-1: PERMIT REQUIRED

Prior to commencing any activity requiring a permit hereunder, the person desiring to undertake such activity or the contractor of such a person, as agent for that person, shall file a Blaine County Road & Bridge Right-of-Way Approach & Encroachment Permit Application with the County.

All such construction, improvement and activity shall be in conformance with this Chapter and any other standards set forth in the Blaine County Road Right-of-Way Management Plan, and all other applicable laws, ordinances, rules and regulations pertaining thereto.

No person shall do, cause to be done, or authorize any of the following without first obtaining a permit from the County:

- A. Construct, repair, replace, relocate, improve or alter any public or private street, road, highway, approach, curb cut, public bicycle path, equestrian path or other public easement;
- B. Dig in, excavate, trench or otherwise disturb the surface or subsurface of any public street, public bicycle path, equestrian path or other public easement or right-of-way;

- C. Place or construct any public or private utilities, public improvements, or vehicular approaches for private streets and/or driveways upon or under any public street or right-of-way;
- D. Maintain any public street or right-of-way, including, but not limited to, grading, graveling or snowplowing of such public street or right-of-way.

6-1-1-2: FEES, CONTRIBUTIONS, AND BONDS: The County shall collect a reasonable fee to cover the cost of reviewing each permit request, and may seek additional contribution and/or performance bonding to reimburse the County for work performed or to ensure compliance with conditions of permit approval.

6-1-1-3: ACCESS AND INSPECTION: County officials and their authorized representatives shall at all times have access to areas where work is proposed or areas where the work for which a permit has been issued, and the contractor shall provide such personnel proper facilities for such access and inspection.

6-1-1-4: APPEAL: An applicant who is aggrieved by the denial or issuance of a permit may appeal said decision in writing within fifteen (15) days of the date that the permit is issued or denied. All appeals shall be heard by the Board of County Commissioners and shall be limited to the record of the proceedings before the decision-maker. Following the appeal hearing, the Board may affirm the decision, affirm with conditions, modify, reverse, or remand the application for further administrative review.

6-1-1-5: PENALTIES: Any person who performs work without, or in violation of, a permit required or issued under this Chapter shall be guilty of a misdemeanor.

6-1-2: TEMPORARY CLOSURE OF PUBLIC ROADS:

A. Conditions for Closure or Limited Use: The Board of County Commissioners, any public official authorized by law, or any employee designated by the Board, may post a notice temporarily closing or reasonably limiting travel on any public road, street, way, or designated right-of-way easement within the jurisdiction of the County upon and for the duration of any of the following conditions or circumstances:

1. Periods of danger to persons or property due to avalanches, flooding, fires, mud slides, ice and similar natural occurrences or disasters.
2. Public safety or public health incidents such as hazardous materials spill, major vehicle accident, oversize load, etc.
3. Periods when travel by vehicles will cause damage to the surface of the road.
4. Parades and other public events.

5. Road construction, maintenance and repairs.

6. Periods when use of the road would adversely affect wildlife in critical conditions.

- B. The Board shall periodically review closures made under this Section and shall re-open the affected areas when the reasons for the closure no longer apply.
- C. Violating Posted Closure Notice: Any person violating the terms of a posted closure notice under this Section shall be guilty of a misdemeanor.

6-1-3: PARKING AND PLACEMENT OF MATERIAL IN PUBLIC RIGHT-OF-WAY PROHIBITED:

- A. Interference with Snow Removal, Traffic Flow or Maintenance: No person, firm, association, partnership or corporation shall park or allow to be parked any motor vehicle on the right-of-way of any public street, road, alley or other public way owned by, or under the jurisdiction of, the County in such a manner or at such a time as to interfere with snow removal, traffic flow, or maintenance of such public right-of-way by the County.
- B. Placement of Material: No person, firm, association, partnership or corporation may store, place, allow, or cause to be placed debris, snow, ice, dirt, gravel, personal property, trees, landscaping, fencing, or any other material upon any public street, road, alley or other public way owned by, or under the jurisdiction of, the County.
- C. Violation: Any person violating this Section shall be guilty of a misdemeanor.
- D. Impoundment of Vehicle: In addition to the remedies and penalties provided in this Chapter, any motor vehicle parked in violation of this section, may be towed away and impounded at the request of the Blaine County Sheriff's Office by any duly licensed automobile wrecking and towing service operator ("towing operator"), and said vehicle shall be impounded by said towing operator until such time as the owner of said vehicle shall pay to said towing operator his standard towing fee plus his standard mileage and storage fees for such services. An impounded motor vehicle may be held in storage by said towing operator until all of said reasonable fees are paid.
- E. Immediate Removal of Encroachment or Material: Any encroachment or material placed in violation of this Section that obstructs or prevents vehicular use within a public right-of-way may be immediately removed by the Road and Bridge Department at the expense of the person, firm, association, partnership or corporation responsible for placing the material within the right-of-way.

6-1-4: ROADSIDE VENDING PROHIBITED:

- A. Roadside Vending Defined: For the purposes of this section, "roadside vending" shall mean the sale, attempted sale, or offering for sale of any goods, products, produce, or services on

or along a state or County road or highway right-of-way from any location other than a fixed, permanent building or structure.

- B. Roadside Vending Prohibited: Roadside vending is hereby prohibited, and any violation of this Section shall be a misdemeanor.
- C. Vehicles: Vehicles used to facilitate any violation of this section may be towed away and impounded by the Blaine County Sheriff. Owners will be responsible for all costs associated with towing, storage and reclaiming of such vehicles.

6-1-5: MOTORIZED VEHICLES PROHIBITED ON DESIGNATED RIGHT-OF-WAY EASEMENTS:

- A. Motorized Vehicle Defined: For the purposes of this Section, "motorized vehicle" shall mean any device in, upon, or by which any person is or may be transported by engine propelled means, including, but not limited to, automobiles, tractors, mopeds, motorcycles, go-carts, electric or gas powered scooters, and snow machines. The term "motorized vehicle" does not include devices propelled exclusively by human power.
- B. Designated Right-of-Way Easement Defined: For purposes of this section, "designated right-of-way easement" shall mean those spaces designated for use as a recreational pathway within Blaine County and any adjacent right-of-way.
- C. Operation of Motorized Vehicles upon Designated Right-of-Way Easement Prohibited: The operation of motorized vehicles upon any designated right-of-way easement is prohibited and shall be an infraction.
- D. Exceptions: The prohibition against motorized vehicles shall not include motorized wheelchairs used to transport disabled persons, and construction and maintenance equipment authorized by the Blaine County Recreation District.

6-1-6: CRIMINAL PENALTIES; CIVIL ENFORCEMENT; REMOVAL:

- A. Misdemeanor and Infractions: Any person found guilty of a misdemeanor or infraction violation of this chapter shall be subject to applicable penalty provided for in Section 1-4-1 of this Code. Each day that an unlawful use continues shall be deemed a separate violation.
- B. Other Legal Relief: In addition to the criminal penalties set forth above, whenever a violation of this Chapter occurs, the County may institute a civil action in the District Court seeking injunctive or other civil relief, and/or civil penalties of one hundred dollars (\$100.00) for each day that a violation occurs.
- C. Removal By County: Any violation of the provisions of this Chapter which presents an immediate danger to public health, safety, and welfare shall be deemed a public nuisance

and will be removed and abated by the County, and the responsible party shall pay all reasonable costs incurred by the County with regard thereto.

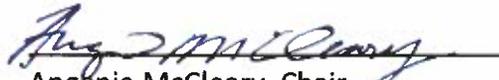
SECTION 2. Severability Clause. The Board of County Commissioners intends that each separate provision of this Ordinance be deemed independent of all other provisions herein, and it is further the intention of said Board that if any of the provisions of this ordinance be declared to be invalid, then all other provisions thereof shall remain valid and enforceable.

SECTION 3. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

Regularly passed, approved and adopted by the Board of County Commissioners of Blaine County, Idaho, this 8th day of January, 2019;

BLAINE COUNTY BOARD OF COUNTY COMMISSIONERS

Attest


Angenie McCleary, Chair


Lawrence Schoen, Vice-Chair


Jacob Greenberg, Commissioner


JoLynn Drage, Clerk



Publication Date: January 16, 2019