

*St. Joseph*  
*6/10/00*

ORDINANCE NO. 190

BY THE ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS: HUBER, EAST-LAKE, AND BRUCE.

AN ORDINANCE REGULATING THE USE, MAINTENANCE, AND REPAIR OF PORTIONS OF PUBLIC RIGHTS-OF-WAY, INCLUDING SIDEWALKS IN ADA COUNTY; PROVIDING THAT IT IS UNLAWFUL TO OBSTRUCT OR DAMAGE PUBLIC RIGHTS-OF-WAY, INCLUDING SIDEWALKS; PROVIDING THAT IT IS UNLAWFUL TO DEFACE PROPERTY LOCATED WITHIN PUBLIC RIGHTS-OF-WAY; PROVIDING THAT IT IS UNLAWFUL TO SWEEP DIRT OR REFUSE ONTO SIDEWALKS; REGULATING DANGEROUS CONDITIONS; PROHIBITING PARKING ON SIDEWALKS; REGULATING LANDSCAPING ADJACENT TO SIDEWALKS; REGULATING TRASH CONTAINERS ON SIDEWALKS; PROVIDING FOR LICENSE AGREEMENTS; REQUIRING THE CLEANING OF SIDEWALKS; REQUIRING SNOW REMOVAL FROM SIDEWALKS; PROVIDING FOR THE REPAIR OF DANGEROUS SIDEWALKS; PROVIDING PROCEDURES FOR FAILURE TO REPAIR DANGEROUS SIDEWALKS; PROVIDING FOR REPEAL OF ORDINANCE 108; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, it is in the best interest of the citizens of Ada County for the Commission to enact an Ordinance providing for maintenance of sidewalks and procedures for the construction, repair, replacement, or removal of sidewalks which are unsafe; and

WHEREAS, Idaho Code § 40-1412 provides authority for the Commission to provide for the construction, repair, replacement or removal of sidewalks which are deemed by the Commission to be dangerous and unsafe.

BE IT ORDAINED BY THE COMMISSIONERS OF THE BOARD OF HIGHWAY DISTRICT COMMISSIONERS OF ADA COUNTY, IDAHO THAT ORDINANCE NO. 190 BE ENACTED AS FOLLOWS:

SECTION 1: OBSTRUCTING OR DAMAGING PUBLIC RIGHTS-OF-WAY

It shall be unlawful for any person to obstruct or damage any sidewalk, curb, gutter or any other portion of a public right-of-way located in Ada County or any of its cities.

SECTION 2: DEFACING PROPERTY LOCATED WITHIN PUBLIC RIGHTS-OF-WAY

It shall be unlawful for any person to post, paste, paint, print, mark, stencil, or to nail any handbill, poster, advertisement or notice of any kind, upon any curbing, sidewalk, pole, tree, fire alarm box, fire hydrant, or other fixture

within the public rights-of-way, or otherwise deface any signs, signals, or other property located within the public rights-of-way in Ada County or any of its cities without prior written permission from the Ada County Highway District.

SECTION 3: PLACING DEBRIS ON PUBLIC RIGHTS-OF-WAY

It shall be unlawful for any person to place, sweep, throw or track any dust, dirt, debris, refuse matter, or litter upon any public right-of-way; provided that in case of accident or necessity while properly using the public right-of-way such person shall not be liable if he or she shall immediately clean up the dust, dirt, debris, refuse matter, or litter caused thereby, and on his or her failure to do so the same may be done by the Ada County Highway District at his or her cost and expense, together with the costs of the action to recover the same.

SECTION 4: DANGEROUS CONDITIONS

It shall be unlawful for any owner or occupant of any building or vacant lot to create or permit to exist any hazardous or unsafe condition on or adjacent to all sidewalks abutting such lot or between such sidewalks and the street.

SECTION 5: PARKING ON SIDEWALKS

It shall be unlawful for any person to park a vehicle on any sidewalk in Ada County.

SECTION 6: LANDSCAPING ADJACENT TO SIDEWALKS

Every owner or occupant of any building or vacant lot located in Ada County or any of its cities shall keep all sidewalks abutting his or her property free from any obstruction of

free passage, including obstruction of passage due to vegetation, trees or landscaping. A minimum of eight feet of vertical clearance shall be maintained at all times over all sidewalks. Such owner or occupant shall not be responsible for landscaping in any public right-of-way which has been accepted for maintenance by a governmental entity.

SECTION 7: TRASH CONTAINERS ON SIDEWALKS

No person shall place any trash container on any sidewalk in such a manner as to obstruct free passage by the public. Any trash container placed on any sidewalk for trash pickup shall be removed within twelve hours of trash pickup.

SECTION 8: LICENSE AGREEMENTS

Any person intending to use any portion of a public right-of-way of a duration which is other than temporary and which is for a purpose other than transportation shall, prior to commencement of such use, request a license agreement from the Board of Highway District Commissioners, or the designee of such Board. A License Agreement shall be required prior to the placement of any fence or other obstruction in or on any public right-of-way.

SECTION 9: CLEANING SIDEWALK AREAS

Every owner or occupant of any building or vacant lot located in Ada County or any of its cities, shall sweep up and keep clean the sidewalks adjacent to such property and shall remove the dirt, refuse, and vegetation from such sidewalks and from the area between the sidewalks and the street.

SECTION 10: SNOW REMOVAL FROM SIDEWALKS

Every owner or occupant of any property zoned for commercial use or used for commercial purposes located in Ada County or any of its cities, shall, by 9:00 a.m., clear the sidewalks adjacent to such property from snow, and keep such sidewalks free therefrom during the day so as to allow the use of such sidewalks in a safe and convenient manner. All other owners or occupants of real property shall keep the sidewalks adjacent to such property reasonably free of snow and ice.

SECTION 11: REPAIR OF DANGEROUS SIDEWALKS

The staff of the Ada County Highway District shall develop guidelines and standards for the repair and replacement of dangerous sidewalks within the County of Ada and any of its cities. The repair of any sidewalk determined by the Director of the Ada County Highway District or his or her designee to be dangerous or unsafe for public use shall be the responsibility of the owner of the real property adjacent to such sidewalk. When staff of the Ada County Highway District becomes aware of a dangerous or unsafe sidewalk, staff shall notify the property owner to repair or replace such sidewalk based upon the guidelines and standards then in effect. The Ada County Highway District may participate in the cost of such repair or replacement within the limits of funds availability.

SECTION 12: FAILURE TO REPAIR DANGEROUS SIDEWALKS

A. Whenever any person shall refuse or fail to repair or replace a sidewalk after notification as provided for in Section 11 of this Ordinance, the Director or his or her designee

may forward a report of such refusal or failure to the Commission.

B. Upon receiving such report, the Commission shall ascertain the necessity of making such improvements, and if, in the opinion of the Commission, construction, repair, replacement or removal of the sidewalk is necessary for the safety of public use or travel, an order shall be entered upon the minutes of the Commission which order shall contain the following:

1. The name and address of the adjacent property owner. If the name of the property owner is unknown, the order shall state "owner unknown" with the description of the property adjacent to such sidewalk.

2. The nature of the required improvement.

3. The requirement that the improvement be made within thirty (30) days after service or publication of notice, and that in the event of failure to make the improvement, the improvement will be made by the Ada County Highway District and the cost thereof assessed against the property if not otherwise paid.

C. The notice shall be served upon the owner of the property adjoining the proposed improvement and due return of the service of such notice shall be made and placed on file in the office of the Treasurer of the Ada County Highway District. The notice may be served either by personal service or by registered or certified mail addressed to the property owner. When the property is owned by a corporation, association, or partnership, notice shall be served upon the President,

Secretary, Managing Partner or Managing Agent thereof. If the name or whereabouts of the owner is unknown, the notice shall be published for two (2) consecutive issues in a newspaper of general circulation in Ada County, Idaho. Proof of such publication shall be placed on file in the office of the Treasurer of the Ada County Highway District.

D. In the event the improvement to the sidewalk is not made within the time allotted, or made not in conformity with the requirements of the improvement as designated by the Commissioners, the Ada County Highway District shall cause the improvements to be made under the supervision and direction of the Director of the Ada County Highway District, or the Director's designee, who shall keep an accurate account of the cost and expense of said improvement. Upon completion of the improvement, the Director shall forthwith certify that making of the improvement and the cost thereof to the Commissioners. The Commissioners shall examine the cost of the improvement as certified by the Director, and if found correct, shall assess the same against the adjacent property.

E. The Treasurer of the Ada County Highway District shall provide and maintain an assessment roll to be known as "Assessment Roll for Sidewalk Repairs and Improvements", which such Assessment Roll shall contain the name of the property owner, if known, the description of the adjacent property next to the improvement, and the amount of the assessment against the property. From and after such entry, the amount charged against the adjacent property shall be a lien thereon in the

category of a special assessment under the provisions of Section 40-1412, Idaho Code.

F. Notice of the assessment shall be given in the same manner as specified in subsection C hereof. If the assessment is not paid within thirty (30) days after service or mailing of the notification of the assessment, the same shall be declared delinquent and be certified to the Ada County Tax Collector as provided in § 40-1412, Idaho Code. All funds received by the Treasurer of the Ada County Highway District as a result of special assessments under this Ordinance shall be held by the Treasurer as a special fund to be applied to the payment of the improvement for which the assessment was made and said fund shall be used for no other purpose than to reimburse the Ada County Highway District for expenditures made on such improvement.

SECTION 13: ORDINANCE 108 REPEALED

Ordinance No. 108, of the Ada County Highway District is hereby repealed.

SECTION 14: EFFECTIVE DATE

This Ordinance shall be in full force and effect thirty (30) days from date hereof.

Dated this 22nd day of May, 1996.

(SEAL)

Sherry R. Huber  
Sherry R. Huber, President

Susan S. Eastlake  
Susan S. Eastlake, Vice-President

James E. Bruce  
James E. Bruce, Secretary

ATTEST:

Jerry D. Nyman  
Jerry D. Nyman, Director