

ORDINANCE NO. 1113

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, CREATING A NEW CHAPTER 5.33 OF THE PAYETTE MUNICIPAL CODE ESTABLISHING CRITERIA FOR GARAGE SALES; ESTABLISHING A PENALTY; SETTING AN EFFECTIVE DATE; ESTABLISHING SEVERABILITY; ALLOWING FOR PUBLICATION BY SUMMARY; ESTABLISHING A REPEALER.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF PAYETTE, IDAHO;

Section 1. There is hereby created a new chapter of the Payette Municipal Code which shall be designated 5.33, and which shall read as follows:

5.33.010. Definitions. Garage Sale shall mean and include all general sales open to the public, conducted from or on any residential premise in any residential zone, as defined in Chapter 17.08 of the Payette City Code, for the purpose of disposing of personal property including, but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "back yard", "patio", or "moving". This definition shall not include a sale where no more than five (5) specific items are held out for sale and all advertisement for such sale specifically names those items to be sold. For purposes of this definition of "garage sale", personal property shall mean property which is utilized, owned and maintained by an individual by members of his residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

5.33.020. Permits Required. No garage sale shall be conducted unless and until the individual desiring to conduct said sale shall obtain a permit therefore from the City of Payette. Multiple resident garage sales shall be allowed under one permit, but shall be limited to or conducted at the residence of one resident named in the permit.

5.33.030. Written Permit. Permits shall include the following information:

- (a) Full name and address of applicant.
- (b) The location/address at which the proposed garage sale is to be held.
- (c) The date, or dates upon which the sale is to be held.
- (d) An affirmative statement that the property to be sold was owned by the applicant, was owned as applicant's personal property and was neither acquired nor consigned for the purpose of resale.
- (e) A statement that all off yard advertising shall be cleaned up or removed.

5.33.040. Permit Fees. Garage Sales. No permit fee shall be charged.

5.33.050. Permit Conditions. (A) Garage Sales. The permit shall set forth and restrict the time and location of such sale. No more than three (3) such permits may be issued to one residence and/or family household during any calendar year. If members of more than one residence join in requesting a permit, then such permit shall be considered as having been issued for each and all of such residences.

(B) No permit issued under this section may be used by a person other than the one to whom the license is issued or a person named in the permit.

5.33.060. Display of Permit. Any permit issued pursuant to the terms and provisions of this Chapter shall be posted on the premises of the garage sale in a conspicuous place so as to be seen by the public and officers of the Payette Department of Public Safety.

5.33.070. Revocation and Refusal of Permit. Any permit issued under this Chapter may be revoked or any application for issuance of a permit may be refused or revoked for any of the following causes:

(A) The application submitted by the applicant or permit holder contains any false, fraudulent or misleading activity;

(B) Fraud, misrepresentation or false statements made in the course of carrying on the licensed activity;

(C) Any violation of this Chapter;

(D) Conducting the licensed activity in an unlawful manner or in such a manner as to constitute a menace to the health, safety or general welfare of the public.

5.33.080. Hours of Operation. Garage sales shall be limited in time to no more than three (3) consecutive days of the dates specified on the permit.

5.33.090. Display of Sale Property. Personal property offered for sale may be displayed within the residence, in a garage, carport and/or in the yard of the residence, but only in such areas. No property offered for sale shall be displayed on any public right-of-way.

5.33.100. Advertising Signs. Only the following specified signs may be displayed in relation to a pending garage sale:

(A) Two (2) signs of not more than four (4) square feet shall be permitted to be displayed on the property of the residence of the garage sale.

(B) Two (2) directional signs of not more than two (2) square feet each are permitted, provided that permission to erect or post said sign prior to posting any directional sign is received from the property owners upon whose property such signs are to be placed.

(C) Signs shall not be attached to any utility pole, telephone pole, street sign or be placed in or on public rights-of-way.

(D) Time limitations. No sign or other form of advertisement shall be exhibited for more than two (2) days prior to the day such sale is to commence. Yard sales should be limited to daylight hours only.

(E) Removal of signs. All signs must be removed within twenty-four (24) hours of the termination of the garage sale.

5.33.110. Inspection of Premises. A member of the Department of Public Safety or any other official designated by the City of Payette to make inspections under the licensing or regulating provisions of the City shall have the right of entry upon any premises showing evidence of a garage sale for the purpose of enforcement or inspection and may close the premises from such a sale or arrest any individual who violates the provisions of this chapter.

5.33.120. Appeals. Any person aggrieved by the actions of the Director of Public Safety in the denial of a license or in the revocation of a license shall have the right of appeal to the City Council of the City of Payette. Any such appeal shall be taken by filing with the City Council, within ten (10) days after notice of the action complained of, a written notice setting forth fully the grounds for the appeal. The applicant shall be advised of the time and place set for the hearing of the appeal by letter mailed to the applicant at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a member of the Department of Public Safety in the same manner as a summons at least three (3) days prior to the date set for hearing. The City Council shall act upon the appeal within thirty (30) days after receipt of said notice of appeal, and its action shall be final.

5.33.130. Penalty. Any person conducting any such yard sale without having the proper permit therefore or who shall violate any of the terms or conditions of this chapter shall be guilty of a misdemeanor and subject to penalties of the general misdemeanor statutes of the State of Idaho. Provided, however, there shall be a minimum mandatory fine of \$25.00 for the first offense and a minimum mandatory fine of \$50.00 for the second offense.

Section 2. Any ordinances which are in conflict with this ordinance are hereby repealed, but only insofar as the conflict exists.

Section 3. If any portion of this ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the ordinance shall constitute ordinance number 1113.

Section 4. This ordinance may be published by summary in accordance with the statutes of the state of Idaho.

Section 5. This ordinance shall be in full force and effect immediately upon passage and publication as required by law.

Passed and approved by the Mayor and City Council this 5th day of September, 1995.

CITY OF PAYETTE

By James E. McCue
Mayor

ATTEST: John P. Franks
City Clerk