

ORDINANCE 1413

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING THE PAYETTE MUNICIPAL CODE SECTIONS 5.10.020, 5.10.030 AND 5.10.040 IN CHAPTER 5.10 OF TITLE 5 TO ALLOW FOR OUTDOOR CONSUMPTION OF ALCOHOLIC BEVERAGES WHEN CONSUMED AT A SIDEWALK CAFÉ OR OUTDOOR DINING AREA; AMENDING SECTION 5.12.010 IN CHAPTER 5.12 OF TITLE 5, BY ADDING NEW SUBSECTIONS PROVIDING FOR SIDEWALK CAFES AND OUTDOOR DINING AREAS; CREATING A NEW SECTION 5.12.020 PROVIDING FOR SIDEWALK CAFES AND OUTDOOR DINING AREAS; SETTING OUT A STATEMENT OF FINDINGS; PROVIDING FOR AN APPLICATION AND PERMIT PROCESS; REQUIRED INFORMATION IN THE APPLICATION; PROVIDING FOR REVOCATION OF A PERMIT; LIMITING THE USE TO THE PARAMETERS SET IN THE APPLICATION; RENUMBERING SECTIONS 5.12.020 AND 5.12.030; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; ESTABLISHING A PENALTY.

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

Section 1. Section 5.10.020 of Title 5, Chapter 5.10 of the Payette Municipal Code is hereby amended to read as follows:

**Chapter 5.10
OPEN CONTAINERS OF ALCOHOLIC LIQUOR ON PUBLIC WAYS**

5.10.010: DEFINITION:

5.10.020: CONSUMPTION:

5.10.030: OPEN CONTAINER:

5.10.040: LICENSEE NOT TO PERMIT REMOVAL OF OPEN CONTAINER:

5.10.050: OPEN CONTAINER IN MOTOR VEHICLES:

5.10.060: PENALTY:

5.10.010: DEFINITION:

As used in this chapter, the following term has the following meaning: "Alcoholic liquor" means any spirits, wine, beer, ale or other liquid containing more than one-half of one percent (0.50%) of alcohol by volume, which is fit for beverage purposes or intended for beverage purposes.

5.10.020: CONSUMPTION:

Except as permitted in Chapter 12 of Title 5 of the Payette Municipal Code, no ~~No~~ person shall consume any alcoholic liquor while in or upon public streets, alleys, sidewalks, parking lots, or other public way

5.10.030: OPEN CONTAINER:

Except as permitted in Chapter 12 of Title 5 of the Payette Municipal Code, no ~~No~~ person shall be in possession of any glass, can or open container containing alcoholic liquor on any thoroughfare, street, sidewalk, alleys, parking lots or any other public way.

5.10.040: LICENSEE NOT TO PERMIT REMOVAL OF OPEN CONTAINER:

Except as permitted in Chapter 12 of Title 5 of the Payette Municipal Code, no ~~No~~ person, firm or corporation licensed to sell alcoholic liquor, or his employees or agents, shall permit any person to remove from such premises, any alcoholic liquor in any open container.

5.10.050: OPEN CONTAINER IN MOTOR VEHICLES:

No person shall have in his or her possession an open container containing alcoholic liquor within or on a motor vehicle, including motorcycles, while parked or standing on a public street or public parking lot in the city, or while such vehicle is in motion. (Ord. 934, 1982)

5.10.060: PENALTY:

Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor.

Section 2. Chapter 5.12.020 of the Payette Municipal Code is hereby amended to read as follows:

**Chapter 5.12
EATING AND DRINKING ESTABLISHMENTS**

5.12.010: ADOPTION OF IDAHO FOOD CODE:

5.12.020: SIDEWALK CAFES AND OUTDOOR DINING AREAS, IN THE C-1 DOWNTOWN COMMERCIAL DISTRICT:

5.12.0320: PERMIT; REQUIRED; FEE; EXPIRATION:

5.12.0430: VIOLATION; PENALTY:

5.12.010: ADOPTION OF IDAHO FOOD CODE:

The definitions, the inspection of food service establishments, the issuance, suspension and revocation of permits to operate food service establishments, the prohibiting of the sale of adulterated or misbranded food or drink, the enforcement of this chapter shall, except where provisions in this chapter conflict, be regulated in accordance with the most recent version of the "Idaho food code" as adopted by the state of Idaho. (Ord. 1357, 2012)

5.12.020 – SIDEWALK CAFES AND OUTDOOR DINING, IN THE C-1 DOWNTOWN COMMERCIAL DISTRICT:

a. Sidewalk cafes and outdoor dining areas are designed to allow uses on public property in locations where they are determined to be appropriate by the City of Payette, and promote and protect the public health, safety, and general welfare of the community. These general goals include, among others, the following specific purposes:

- (1) To attract residents and nonresidents to downtown Payette;
- (2) To provide an additional way for restaurants or food establishments to expand their operations;
- (3) To promote sidewalk cafes and outdoor dining as useful and properly planned visual amenities;
- (4) To provide adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes and outdoor dining and to ensure access to adjacent commercial and retail uses;
- (5) To provide for penalties for violations of this chapter.

b. Upon an application being made to Administration, and in compliance with the other requirements of this code, the City of Payette may issue a temporary use permit providing for the placement thereon of tables, chairs, umbrellas, fencing, outdoor receptacles, or other related articles. Applications for permits shall be reviewed and approved by city staff in accordance with all city ordinances, City of Payette sidewalk café & outdoor dining design guidelines, building and fire codes, and all other applicable laws and ordinances. All fees if any shall be payable in advance of any permits being issued.

c. In the event a permit is issued, the permit shall expire on the expiration date set out on the permit whether issued by the City or by the state department of health or the Southwest Health District. A permit application available from the City of Payette, shall include, but shall not necessarily be limited to, the following information:

(1) Name of applicant and business;

(2) Address of the business;

(3) Address of the applicant;

(4) Telephone number of the applicant and business;

(5) Name of the property owner if other than applicant;

(6) Address of the property owner if other than applicant;

(7) Telephone number of the property owner if other than applicant;

(8) Proposed start and end date;

(9) Proposed hours of operation;

(10) Proposed area of occupancy including square feet and dimensions;

(11) Whether alcohol will be served;

(12) Copy of certificate of insurance;

(13) Whether permit application is a new application or renewal; if renewal, applicant shall describe any changes from the previous application;

(14) Written authorization from the owner of the property shall be required where the applicant is not the owner of the affected property.

d. Standards: Cafes and outdoor seating shall only be permitted where it is determined that the use will not create a hazard, a sight distance obstruction for motor vehicle operators, nor unduly impede pedestrian traffic. Conditions, specific to the operation of a business may be incorporated into the permit as required by city staff. All sidewalk cafes and outdoor seating are subject to the requirements as listed within the City of Payette sidewalk café & outdoor dining design guidelines.

1. An applicant may not use the permitted space for any purpose other than the authorized purpose stated on the application. The City of Payette may issue such regulations as it may deem necessary to limit the impact of the proposed use on the general public, un-related businesses and others who may require access into the impacted areas.

E. Revocation: Payette Police Department or its designee shall have the authority to revoke the permit for unauthorized use or a violation of any of the provisions of Payette City Code. Upon revocation, the applicant shall not be entitled to any refund for fees assessed under this chapter. After the revocation of a permit, in the event a permit holder desires to continue the use allowed herein, a permit holder must submit an application for a new permit under the same requirements for the original permit.

Section 3: Section 5.12.020 of the Payette Municipal Code is hereby renumbered to become section 5.12.030.

5.12.0320: PERMIT; REQUIRED; FEE; EXPIRATION:

The city clerk shall verify that all permits have been obtained be the health authority and, before a permit is issued to an applicant desiring to operate a food service establishment, a fee as set by resolution, shall be paid and the applicant shall have already secured a permit to operate a food service establishment from the state department of health. The permit issued shall expire on the date of the expiration of the permit issued by the state department of health. (Ord. 1371, 2012)

Section 4: Section 5.12.030 of the Payette Municipal Code is hereby renumbered to become section 5.12.040

5.12.0430: VIOLATION; PENALTY:

Any violation of this chapter shall be a misdemeanor punishable by fine and/or imprisonment up to, but not exceeding, the maximum penalties set forth in Idaho Code sections 18-113 and 50-302. In addition, thereto, such persons may be enjoined from continuing such violations. Each day upon which such a violation occurs constitutes a separate violation. (Ord. 1357, 2012)

Section 5. This Ordinance may be published in summary form allowed by Idaho Code.

Section 6. This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

Section 7. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

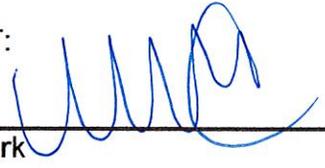
Section 8. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 11th day of October, 2016.

CITY OF PAYETTE, IDAHO

ATTEST:

City Clerk



BY

Jeffrey T. Williams, Mayor

