

CITY OF PAYETTE, IDAHO
ORDINANCE NO. 1315

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, ADOPTING A NEW CHAPTER 9.65 OF THE PAYETTE MUNICIPAL CODE PROHIBITING GANG ACTIVITY IN THE CITY LIMITS; ADOPTING DEFINITIONS ENUMERATED BY THE STATE OF IDAHO; PROHIBITING THE USE OR DISPLAY OF GANG SIGNS, COLORS, EMBLEMS OR INSIGNIA; PROVIDING FOR A SEVERABILITY CLAUSE; ESTABLISHING A REPEALER CLAUSE; ESTABLISHING A PENALTY; ALLOWING FOR PUBLICATION IN SUMMARY FORM; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE UPON PASSAGE, APPROVAL AND PUBLICATION ACCORDING TO LAW.

Section 1. Findings of the City Council:

1. The City Council hereby finds and declares that it is the right of every person, regardless of race, color, creed, religious, national origin, sex, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of gangs, criminal gangs, violent groups and individuals.

2. It is not the intent of this Ordinance to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The City Council hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

3. The City Council finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by gangs. The City Council finds that there are now several gangs operating in Idaho, and that while their terrorism is most widespread in urban areas, gangs are spreading into suburban and rural areas of Idaho, including Payette County.

4. The City Council further finds that gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into

membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the gang.

5. Gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the City Council, by enacting this Ordinance, to prohibit gang related activity.

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

Section 2. Payette Municipal Code is amended by the addition of a new Chapter 9.65, which section shall read as follows:

Chapter 9.65

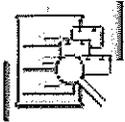
GANG ACTIVITY

Sections:

- 9.65.010 Definitions
- 9.65.020 Unlawful Display of Gang Affiliation
- 9.65.030 Unlawful Display for gang recruitment
- 9.65.040 Unlawful Display to incite violence
- 9.65.050 Penalty

9.65.010. DEFINITIONS: (A) For the purpose of this Chapter, the definitions of Idaho Code Section 18-8502 are adopted by reference and incorporated hereat by the City as if set out in full verbatim.

(B) B. For purposes of this chapter, a "public place" means the public way or any other location open to the public, whether publicly or privately owned, including but not limited to, any street, sidewalk, avenue, highway, road, curb area, alley, park, playground or other public ground or public building, any common area of a school, hospital, apartment house, office building, transport facility, shop, privately owned place of business to which the public is invited, including any place of amusement, entertainment, or eating place. Any "public area" also includes the front yard area, driveway and walkway of any private residence, business, or



Idaho Statutes

TITLE 18 CRIMES AND PUNISHMENTS

CHAPTER 85 IDAHO CRIMINAL GANG ENFORCEMENT ACT

18-8502. DEFINITIONS. As used in this chapter:

(1) "Criminal gang" means an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, that has a common name or common identifying sign or symbol, whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity, having as one (1) of its primary activities the commission of one (1) or more of the criminal acts enumerated in subsection (3) of this section.

(2) "Criminal gang member" means any person who engages in a pattern of criminal gang activity and who meets two (2) or more of the following criteria:

- (a) Admits to gang membership;
- (b) Is identified as a gang member;
- (c) Resides in or frequents a particular gang's area and adopts its style of dress, its use of hand signs, or its tattoos, and associates with known gang members;
- (d) Has been arrested more than once in the company of identified gang members for offenses that are consistent with usual gang activity;
- (e) Is identified as a gang member by physical evidence such as photographs or other documentation; or
- (f) Has been stopped in the company of known gang members four (4) or more times.

(3) "Pattern of criminal gang activity" means the commission, attempted commission, or solicitation of two (2) or more of the following offenses, provided that the offenses are committed on separate occasions or by two (2) or more gang members:

- (a) Robbery, as provided in section _____, Idaho Code;
- (b) Arson, as provided in sections _____ through _____, Idaho Code;
- (c) Burglary, as provided in sections _____, _____, and _____, Idaho Code;
- (d) Murder or manslaughter, as provided, respectively, in sections _____ and _____, Idaho Code;
- (e) Any violation of the provisions of _____, Idaho Code, that involves possession with intent to deliver, distribution, delivery or manufacturing of a substance prohibited therein;
- (f) Any unlawful use of a weapon that is a felony pursuant to _____, Idaho Code;
- (g) Assault and battery, as provided in _____, Idaho Code;
- (h) Criminal solicitation, as provided in section _____, Idaho Code;

SUMMARY OF ORDINANCE 1315

Ordinance 1315 is an ordinance of the City Of Payette, Idaho, adopted May 10, 2010. The ordinance may be descriptively known as the Payette ordinance adopting a new chapter 9.65 of the Payette Municipal Code prohibiting gang activity in the city limits; adopting definitions enumerated by the State of Idaho; Prohibiting the use or display of gang signs, colors, emblems or insignia. The Ordinance provides a severability clause, provides for publication by summary, sets an effective date, and establishes a repealer.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1315 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 10th day of May, 2010.



Bert L. Osborn