

ORDINANCE 1391

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING CHAPTER 8.28 OF THE PAYETTE MUNICIPAL CODE BY AMENDING SECTION 8.28.010 BY ADDING THE NAME OF THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY; ADDING A NEW SECTION 8.28.02 PERMIT REQUIRED; ADDING A NEW SECTION 8.28.030 RIGHT OF ENTRY AND INSPECTION; AMENDING SECTION 8.28.040 BY DESIGNATING THE FIRE CHIEF OR A DESIGNEE IN PLACE OF THE MAYOR AND CITY COUNCIL; ADDING A NEW SECTION 8.28.050 WHICH ALLOWS FOR RECREATIONAL BURNING REGULATIONS AND WHICH SETS LIMITS ON RECREATIONAL BURNING; AMENDING SECTION 8.28.060 WHICH ESTABLISHES A PENALTY; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER; CREATING A PENALTY.

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

Section 1. Section 8.28. of Title 8 of the Payette Municipal code is hereby amended to read as follows:

Chapter 8.28
~~BURNING RUBBISH~~ OPEN & RECREATIONAL
BURNING

8.28.010: IDAHO AIR POLLUTION CONTROL COMMISSION REGULATIONS

ADOPTED BY REFERENCE:

8.28.020: VIOLATION; PENALTY; PERMIT REQUIREMENTS

8.28.030: RIGHT OF ENTRY AND INSPECTION

8.28.0340: OPEN BURNING REGULATIONS AND RESTRICTIONS:

8.28.050: RECREATIONAL BURNING REGULATIONS AND RESTRICTIONS:

8.28.060: VIOLATION; PENALTY:

Section 2. Section 8.28.010 of the Payette Municipal Code is hereby amended to read as follows:

8.28.010: IDAHO AIR POLLUTION CONTROL COMMISSION REGULATIONS ADOPTED BY REFERENCE:

For the purpose of regulating and governing conditions causing a polluted atmosphere which causes an unreasonable interference with human, plant or animal life or the reasonable use of property, the regulations for control of open burning adopted by the Idaho air pollution control commission on July 23, 1970 the Idaho Department of Environmental Quality, are adopted by reference. Said regulations for control of open burning, three (3) copies of which shall be on file at all times in the office of the city clerk, shall be made a part of this code as if set out at length in this section.

Section 3.Section 8.28.020 of the Payette Municipal Code is hereby amended to read as follows:

8.28.020: PERMIT REQUIRED:

- A. **Open Burning:** Open burning is defined as the burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Any person seeking to conduct an open burn shall apply with the city clerk, fire chief or their designee and obtain a permit for burning. This permit shall expire within five (5) days. Provided, however, that in the event an air quality advisory is issued, a burning ban is in effect, or temperatures exceeding 90 degrees Fahrenheit or winds in excess of 10 miles per hour, or other reasons, permits can be terminated and no further permits issued.
- B. **Recreational Fire Permit and Use Requirements.** A recreational fire is defined as any small fire in an approved, self-enclosing portable device or non-combustible structure located at a residence for the purposes of recreation and personal enjoyment. With the exception of fires used in approved outdoor cooking devices that are fueled by natural gas, propane, or charcoal, a City Permit must be obtained prior to having a recreational fire. Each City Permit shall be effective for ninety (90) days.
- C. **Bonfires and Ceremonial Burns,** hereafter called bonfires, are permitted by permit only. All permitted bonfires must be conducted in accordance with the rules established herein. Any violation may result in issuance of a citation. An application for a permit must be filed with the fire chief, their designee or City Clerk a minimum of one (1) week prior to the requested burn date. Permits are only valid for the day of the bonfire.

The Fire Chief, City Clerk, or their designee shall have the right to reject or modify any application which, while meeting these requirements, may present an unreasonable hazard to the safety, health or property of others.

Section 4.Section 8.28.030 of the Payette Municipal Code is hereby amended to read as follows:

8.28.030: RIGHT OF ENTRY AND INSPECTION:

The Fire Chief or any authorized officer, agent, employee or representative of the City of Payette who presents credentials shall be permitted to inspect an area where open burning, outdoor burning, or recreational burning is taking place or will take place pursuant to a burning permit for the purpose of ascertaining compliance with the provisions of a permit and/or this ordinance.

Section 4.Section 8.28.040 of the Payette Municipal Code is hereby amended to read as follows:

8.28.0340: OPEN BURNING REGULATIONS AND RESTRICTIONS:

- A. It shall be unlawful to burn garbage, refuse, weeds, grasses, fields, or any combustible matter within the city limits, except as herein provided.

- B. Unless otherwise designated by the mayor and city council ~~fire chief or their designee,~~ burning shall be permitted throughout the year. Burning hours shall be between the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. ~~dawn to dusk.~~
- C. ~~Any person seeking to burn shall apply with the city clerk, fire chief or designee and obtain a permit for burning. This permit shall expire within five (5) days. Provided, however, that in the event an air quality advisory is issued, or burning is a hazard because of dry weather or other reasons, permits can be terminated and no further permits issued. At the time of seeking the permit, the applicant shall provide the clerk with the following information:~~
- ~~1. Applicant's name, address, telephone number, date and time of intended burning.~~
 - ~~2. Address where the burning will take place if different from the applicant's address.~~
 - ~~3. Ownership of the property where the burning will occur.~~
 - ~~4. Type of substance that is being burned.~~
- D. There shall be no burning of any substance which is designated as hazardous waste or hazardous material by the EPA.
- E. The use of burning barrels is allowed for yard debris only and burning of household garbage is strictly prohibited.
- F. The prohibition of this section shall not apply to wood burning stoves.
- G. No burning shall be done upon any city street, right of way, easement or property.
- H. ~~Anyone who violates this section shall be guilty of a misdemeanor and punished in accordance with the general misdemeanor laws of the state.~~

Section 5. There is hereby created in new section 8.28.050 of the Payette Municipal Code, which section shall read as follows:

8.28.050 RECREATIONAL BURNING REGULATIONS AND RESTRICTIONS:

A. Minimum Safety Procedures to be followed:

1. Recreational fires shall be no closer than 15 feet from any building, structure, property line, or any other combustible materials.
2. Any person who obtains a permit for recreational fire shall be responsible for any damages caused by the fire.
3. Portable devices (defined as devices commercially designed and intended to contain and control outdoor wood fires) shall be used in accordance with the manufacturer's recommendations and must be employed upon a non-combustible surface.

4. The width of the non-combustible surface must be twice the height of the approved portable device or non-combustible structure.
5. All recreational fires shall have a diameter of no more than 3 feet and may not extend more than two feet high. No person shall maintain a recreational fire in an approved portable device or combustible structure so that flames extend beyond the fire chamber.
6. No recreational fire shall be started or allowed to continue burning when the wind direction or wind speed will cause smoke, embers, or other burning materials to be carried by the wind toward any other combustible and/or flammable materials. Wind speeds MAY NOT be in excess of 10 mph.
7. Smoke from any recreational fire shall not create a nuisance for neighboring property owners. Persons with permits are encouraged to speak with surrounding neighbors regarding recreational fire usage to reduce the possibility of nuisance complaints. The fire shall be extinguished immediately upon the complaint of a neighboring property owner in regard to nuisance smoke.
8. Only clean, dry, and untreated wood shall be burned, provided that the wood does not extend outside of the fireplace. Material for fires shall not include rubbish, garbage, recyclable items, trash, any material made of or coated with rubber, plastic, leather or petroleum based materials, and shall not contain any flammable or combustible liquids.
9. Either a charged water hose, or a 5-gallon water bucket, or a 5-lb ABC fire extinguisher shall be available in a safe location near the recreational fire within 25 feet.
10. All recreational fires shall be attended by at least one person who is 18 years of age or older, from the ignition of the fire until the fire is completely extinguished.

B. Bonfires and Ceremonial Burns:

1. The Fire Chief or a designee may inspect the site of the bonfire prior to approving the application to ensure the area is safe and accessible to emergency equipment.
2. Excessive winds or any other adverse conditions may result in the cancelation or extinguishing of a bonfire in progress.

Section 6. There is hereby created a new section 8.28.060 section 8.28.060 was formerly designated as 8.28.020 and as amended the new section 8.28.060 shall read follows:

8.28.0260: VIOLATION; PENALTY:

Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00), and/or be imprisoned for a period not to exceed thirty (30) days. In addition thereto, such persons may be enjoined from continuing such violations. **punished in accordance with the general misdemeanor laws of the State of Idaho.** Each day upon which such a violation occurs constitutes a separate violation.

Section 7. This Ordinance may be published in summary form allowed by Idaho Code.

Section 8. 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 9. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

Section 10. 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 2nd day of March, 2015.

CITY OF PAYETTE, IDAHO

by _____

Jeffrey T. Williams, Mayor

ATTEST



Mary Cordova, City Clerk