

ORDINANCE 1423

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, AMENDING THE PAYETTE MUNICIPAL CODE, BY ADDING A NEW SECTION 17.12.015 SCHEDULE OF BUILDING HEIGHT AND LOT AREA REGULATIONS OF CHAPTER 17.12 REGULATIONS GENERALLY IN TITLE 17, AND BY ADDING A NEW CHAPTER 17.85 WIRELESS FACILITY, SPIRES, POLES, ANTENNAS, STEEPLES, TOWERS AND OTHER SUCH STRUCTURES; IN TITLE 17; SETTING AN EFFECTIVE DATE; ALLOWING PUBLICATION IN SUMMARY FORM; ESTABLISHING SEVERABILITY; ESTABLISHING A REPEALER.

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

Section 1. Title 17 of the Payette Municipal Code is hereby amended by adding a new section 17.12.015 under chapter 17.12 Regulations Generally, as follows:

17.12.015: SCHEDULE OF BUILDING HEIGHT AND LOT AREA REGULATIONS:

A. Official Height And Area Regulations; Minimum Yard Setbacks¹:

Zoning District	Maximum Height	Front Setback	Rear Setback	Interior Side Setback	Street Frontage	Minimum Lot Area (Sq. Ft.)
A-R	35'	25' from front property line or 55' from street centerline; whichever is greater ¹	8' ¹	8' ¹	75'	8,000/ 10,000 corner lot
B-R	35'	25' from front property line or 55' from street centerline; whichever is greater ¹	8' ¹	8' ¹	60'	6,000 8,000 corner lot
C	50'	0' ^{1D}	n/a	'	'	n/a
C-1	50'	0' ^{1D}	n/a	'	'	n/a
C-2	50'	0' ^{1D}	n/a	'	'	n/a
T	20'	30'	25'	10'	0'	108,900
I	85'	25' ^{1D}	25'	20'	20'	n/a

B. Note Conditions:

1. Setback reductions (to be measured from the foundation to the property line):

a. The roofs of buildings shall not project to within four feet (4') of the side property line.

b. Open structures such as porches, canopies, balconies, platforms, carports, covered patios and similar architectural projections shall be considered part of the building to which it is attached and shall not project more than four feet (4') into the required rear yard setback.

c. Where a front uniform setback exists which is less or greater than required in this subsection, the setback shall conform to such uniform setback.

d. In zone C, Section 17.32.040(A) applies; In zone C-1, Section 17.34.040(A) applies; In zone C-2, Section 17.36.040(A) applies; In zone I, 17.40.040(A) applies.

C. Residential Buildings: All residential buildings in residential districts must meet residential official height and area regulations.

Section 2. Title 17 of the Payette Municipal Code is hereby amended by adding a new sub-section C under chapter 17.28.040 Location Requirements, as follows:

17.28.040: LOCATION REQUIREMENTS:

A. Requirements for location of buildings in A residential districts shall be applicable to location of buildings in B residential districts.

B. Minimum lot size shall be as follows:

1. Multi-family housing: Three thousand five hundred (3,500) square feet per living unit.

2. Single-family home: Six thousand (6,000) square feet.

3. Corner lots for single-family homes: Eight thousand (8,000) square feet.

C. A lot shall have at least sixty feet (60') of frontage onto a public street unless it is a corner lot, which shall have at least seventy five feet (75') of frontage onto a public street.

Section 3. Title 17 of the Payette Municipal Code is hereby amended by adding a new sub-section D under chapter 17.32.050 Buildings and Use Restrictions Generally, as follows:

17.32.050: BUILDINGS AND USE RESTRICTIONS GENERALLY:

- A. No window or door while in an open position or during opening shall project into any street or alley.
- B. For each five thousand (5,000) square feet of floor space, one off street loading zone of at least three hundred (300) square feet shall be provided on the property.
- C. For all business or commercial use permitted in C commercial district built after the effective date of this title, the minimum number of off street parking areas required are delineated in chapter 17.72 of this title.

D. No new structure shall occupy more than eighty percent (80%) of the total lot size.

Section 4. Title 17 of the Payette Municipal Code is hereby amended by adding a new sub-section B under chapter 17.34.050 Building Restrictions Generally, and changing the title of the section to read as follows:

17.34.050: BUILDING AND USE RESTRICTIONS GENERALLY:

- A. No window or door while in an open position or during opening shall project into any street or alley.

B. No new structure shall occupy more than eighty percent (80%) of the total lot size.

Section 5. Title 17 of the Payette Municipal Code is hereby amended by adding a new sub-section E under chapter 17.36.050 Building and Use Restrictions Generally, as follows:

17.36.050: BUILDING AND USE RESTRICTIONS GENERALLY:

- A. No window or door while in an open position or during opening shall project into any street or alley.
- B. For each six thousand (6,000) square feet of floor space, two (2) off street loading zones of at least three hundred fifty (350) square feet each shall be provided on the property. In addition, for each ten thousand (10,000) square feet of open shed or yard used for storage, one loading zone of at least three hundred fifty (350) square

feet shall be provided on the property. All other parking requirements are addressed in chapter 17.72 of this title.

- C. Location and size of curb cuts and driveways shall be approved by the city council; provided, however, that any curb cut or driveway greater than twelve feet (12') in width will be permitted only if public parking space is provided within three hundred feet (300') equal to the number of parking spaces removed from public use by such curb cut or driveway.
- D. All uses permitted in C commercial districts shall be allowed in C-2 commercial districts; provided, however, that C-2 commercial districts shall be primarily for the purposes of commerce or industry.
- E. No new structure shall occupy more than eighty percent (80%) of the total lot size.

Section 6. Title 17 of the Payette Municipal Code is hereby amended by adding a new chapter 17.85 Personal Wireless Facilities, Spires, Poles, Antennas, Steeples, Towers, and Other Such Structures, under Title 17 Zoning, as follows:

Chapter 17.85

PERSONAL WIRELESS FACILITIES, SPIRES, POLES, ANTENNAS, STEEPLES, TOWERS, AND OTHER SUCH STRUCTURES

- 17.85.010: PURPOSE:
- 17.85.020: TOWERS IN ZONING DISTRICTS:
- 17.85.030: COLLOCATION REQUIREMENTS:
- 17.85.040: TOWER AND ANTENNA DESIGN REQUIREMENTS:
- 17.85.050: TOWER SETBACKS:
- 17.85.060: TOWER LIGHTING, SIGNAGE, AND ATTACHMENTS:
- 17.85.070: AMATEUR RADIO ANTENNAS:
- 17.85.080: ACCESSORY UTILITY BUILDINGS:
- 17.85.090: ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS:
- 17.85.095: PRIORITIES:
- 17.85.100: ADDITIONAL APPLICATION SUBMITTAL REQUIREMENTS:
- 17.85.110: PERMITS:
- 17.85.120: ADDITIONAL REQUIREMENTS FOR NOTICE OF PUBLIC HEARING:
- ~~17.85.130: RESTRICTED AREAS:~~
- 17.85.140: HEIGHT:

17.85.010: PURPOSE

To accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, regulations regarding

personal wireless facilities, spires, poles, antennas, steeples, towers, and other such structures are necessary in order to:

- A. Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;
- B. Minimize adverse visual effects of spires, poles, antennas, steeples, towers, and other such structures through careful design and siting standards;
- C. Avoid potential damage to adjacent properties from spire, pole, antenna, steeple, tower, and other such structures' failure, through structural standards and setback requirements; and
- D. Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

17.85.020 TOWERS IN ZONING DISTRICTS:

A. Residential Districts:

- 1. On residentially zoned parcels, towers supporting amateur radio antennas shall not be permitted in the front, side or street side yard.
- 2. Personal wireless facilities shall be prohibited in all residential zones.

B. Commercial/Industrial Districts:

- 1. Wireless antennas may be permitted to be attached to existing light standards and power line support devices (or replacement equivalent of same height) provided, however, the antenna(s) are either flush mounted or mounted in a manner that provide minimum visual impact. Notwithstanding the foregoing, all provisions of this subsection shall be applicable to wireless antennas located on existing light standards and power line support devices.

17.85.030 COLLOCATION REQUIREMENTS:

- A. A proposal for a new commercial wireless telecommunication service tower in excess of thirty-five feet (35') in height shall not be approved unless the commission finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within the following radius of the proposed tower:

1. A two (2) mile radius for towers with a height over one hundred ten feet (110').
2. A one mile radius for towers with a height over eighty feet (80') but not more than one hundred ten feet (110').
3. A one-half ($1/2$) mile radius for towers with a height over fifty feet (50') but not more than eighty feet (80').
4. A one-fourth ($1/4$) mile radius for towers with a height over thirty-five feet (35') but not more than fifty feet (50').

B. It shall be the burden of the applicant to demonstrate that the proposed tower or antenna cannot be accommodated on an approved tower or building within the required search radius due to one or more of the following reasons:

1. Unwillingness of another tower or facility owner to entertain shared use.
2. The proposed collocation of an existing tower or facility would be in violation of any local, state or federal law.
3. The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
4. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
5. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
6. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building as documented by a qualified and licensed professional engineer, or other professional qualified to provide necessary documentation
7. Any proposed commercial wireless telecommunication service tower shall be designed, structurally,

electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two (2) additional users if the tower is over one hundred ten feet (110') in height, for at least one additional user if the tower is over fifty feet (50') in height.

8. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
9. Personal wireless facilities proposed at a location which has an approved building/zoning permit (approved after the effective date hereof) for an existing facility which was required to allow collocation shall not be required to obtain a separate building/zoning permit as long as all the requirements of the previously approved special use permit will be complied with. Design review, and subsequent building permit, will be required for any such proposal.

17.85.040 TOWER AND ANTENNA DESIGN REQUIREMENTS:

- A. All personal wireless facilities shall be required to obtain design review by the City approval prior to construction.
- B. Towers and antennas shall be required to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the federal aviation administration.
- C. Personal wireless facility towers shall be of a monopole design unless the commission determines that an alternative design would better blend into the surrounding environment.
- D. With the exception of necessary electric and telephone service and connection lines approved by the issuing authority, no part of any antenna or tower nor any lines, cable, equipment or wires or braces in connection with either shall at any time extend across or over any part of the right of way, public street, highway, sidewalk, or property line.
- E. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons. The climbing pegs within the bottom twenty feet (20') of the tower shall be removed and shall only be used when the tower is being serviced.
- F. Metal towers shall be constructed of, or treated with, corrosive resistant material.
- G. Wood poles shall be impregnated with rot resistant substances.

17.85.050 TOWER SETBACKS:

- A. Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.
- B. If the tower does not exceed the height limitations of the zone in which it is located, the tower shall meet the setback requirement of the zone of this section. If the tower exceeds the height limit of the zone in which it is located, the tower shall be set back one foot (1') for every ten feet (10') in total tower height. In either case, the tower shall be constructed to the Telecommunications Industry Association/Electronic Industries Association (TIA/EIA) 222 revision F standard entitled "Structural Standards For Steel Antenna Supporting Structures" or as hereinafter may be amended. Otherwise, the tower shall be located a minimum of one foot (1') for each foot of height from all property lines (the fall zone). No storage or structures other than the accessory utility buildings, are permitted in the fall zone, except as may be specifically permitted by the Planning & Zoning commission through a conditional use process.
- C. Towers shall be set back from all existing public right of way lines (or planned right of way lines if additional height is to be acquired in the future) by a minimum distance equal to twice the height of the tower including all antennas and attachments. If this requirement conflicts with other setback requirements of this code the setback with the greater distance shall prevail, except as may be allowed in subsection E of this section.
- D. Towers shall not be located between a principal structure and a public street.
- E. A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the Planning & Zoning commission, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device, or similar structure.

17.85.060 TOWER LIGHTING, SIGNAGE, AND ATTACHMENTS:

- A. No antenna or tower shall have affixed or attached to it in any way, except during time of repair or installation, any stationary lights, strobe lights, reflectors, flashers, or other illuminating device, except as specifically required by the federal aviation administration, federal communications commission, or other federal or state authority.

- B. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower if approved by the commission.
- C. The use of any portion of a tower for signs, other than warning or equipment information signs, is prohibited.
- D. No tower shall have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest, or like structure, except during periods of construction or repair.

17.85.070 AMATEUR RADIO ANTENNAS:

In accordance with the federal communications commission's preemptive ruling PRB 1, towers erected for the primary purpose of supporting amateur radio antennas may exceed thirty feet (30') in height provided that a determination is made by the city that the proposed tower height is technically necessary to successfully engage in amateur radio communications. A conditional use permit is required for any amateur radio antenna in excess of thirty-five feet (35').

17.85.080 ACCESSORY UTILITY BUILDINGS:

All utility buildings and structures accessory to a tower are required to have design review approved by the city prior to construction.

17.85.090 ABANDONED OR UNUSED TOWERS OR PORTIONS OF TOWERS:

As a condition of approval of any required conditional use permit for personal wireless facilities, all abandoned or unused towers and associated facilities shall be required to be removed within sixty (60) days of cessation of use as a personal wireless facility unless a time extension is granted by the city. A copy of the relevant portions of a signed lease, which requires the applicant to remove the tower and associated facilities upon cessation of the use as a personal wireless facility, shall be submitted at the time of application. In the event that the tower and associated facilities are not removed within the sixty (60) days, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.

17.85.095 PRIORITIES:

- A. Priority Of Location: The following establishes the order of priorities for locating new communications facilities:

1. Place antennas and towers in districts zoned industrial
2. Place antennas and towers in districts zoned commercial which do not adjoin or adversely impact residential neighborhoods.
3. Place antennas on appropriate existing structures, such as buildings, communications towers, water towers, and smokestacks in other zoned districts.
4. Place antennas and towers on other private nonresidential property.
5. Place antennas and towers in residential districts only if locations for which a need has been demonstrated are not available on existing structures or in nonresidential districts.
6. Place antennas and towers on public property.

An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a nonresidential zoning district, and that due to valid considerations including physical constraints, and economic or technological feasibility, no appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of tall structures within a one mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than twenty feet (20'), communications towers and water tanks within one mile of the proposed tower.

B. Priority Of Users: Priority for the use of city owned land for antennas and towers will be given to the following entities in descending order:

1. City of Payette;
2. Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the city and private entities with a public safety agreement with the city;
3. Other governmental agencies, for uses which are not related to public safety; and
4. Entities providing licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized

mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

C. Minimum Requirements: The placement of antennas or towers on city owned property must comply with the following requirements:

1. The antennas or tower will not interfere with the purpose for which the city owned property is intended;
2. The antennas or tower will have no adverse impact on surrounding private property;
3. The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the council after considering comparable rates in other cities, potential expenses, risks to the city, and other appropriate factors;
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the costs of antenna or tower's removal;
5. The antennas or tower will not interfere with other users who have a higher priority as discussed in subsection B of this section;
6. Upon reasonable notice, the antennas or tower may be required to be removed at the user's expense;
7. The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antennas or tower;
8. The user must obtain all necessary land use approvals; and
9. The applicant will cooperate with the city's objective to promote collocations and thus limit the number of separate antenna sites requested.

D. Special Requirements: The use of certain city owned property, such as water tower sites, for antennas or towers brings with it special concerns due to the unique nature of these sites. The placement of antennas or towers on these special city owned sites will be allowed only when the following additional requirements are met:

1. Water Tower Or Reservoir Sites: The city's water towers and reservoirs represent a large public investment in water pressure stabilization and peak capacity reserves. Protection of the quality of the city's water supply is of prime importance to the city. As access to the city's water storage systems increases, so too increases the potential for contamination of the public water supply. For these reasons, the placement of antennas or towers on

water tower or reservoir sites will be allowed only when the city is fully satisfied that the following requirements are met:

- a. The applicant's access to the facility will not increase the risks of contamination to the city's water supply;
- b. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
- c. The presence of the facility will not increase the water tower or reservoir maintenance cost to the city; and
- d. The presence of the facility will not be harmful to the health of workers maintaining the water tower or reservoir.
- e. Facility meet requirements of Source Water Protection ordinance.

E. Application Process:

All applicants who wish to locate an antenna or tower on city owned property must submit to the City a completed application and detailed plan that complies with the submittal requirements of this chapter, this title, and other provisions of this code, along with other pertinent information requested by the city.

F. Termination:

The council may cancel any lease if it determines that any one of the following conditions exist:

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use;
2. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis; or
3. A user violates any of the standards in this chapter or the conditions attached to the city's lease or other authorization.

Before acting, the city will provide notice to the user of the intended termination and the reasons for it, and provide an opportunity for the user to address the council regarding the proposed action. This procedure need not be followed in emergencies.

G. Reservation Of Right: Notwithstanding the above, the council reserves the right to deny, for any reason, the use of any or all city owned property by any one or all applicants.

17.85.100 ADDITIONAL APPLICATION SUBMITTAL REQUIREMENTS:

A. In addition to the information required elsewhere in this title, development applications for personal wireless facilities, shall include the following supplemental information:

1. Documentation from a qualified and licensed professional engineer showing that the proposed facility will be in compliance with the FCC standards regarding radio frequency (RF) emissions.
2. A report from a qualified and licensed professional engineer which describes the tower height and design (including a cross section and elevation); documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas; describes the tower's capacity, including the number and type of antennas that it can accommodate; documents what steps the applicant will take to avoid interference with established public safety telecommunications; includes an engineer's stamp and registration number; and includes other information necessary to evaluate the request.
3. For all personal wireless facilities, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower, as required by this code, if an additional user agrees in writing to meet reasonable terms and conditions for shared use.
4. Documentation showing that the proposed tower complies with regulations administered by the federal aviation administration.
5. Written approval of the site location with specific reference to the height of the antenna structure and any lighting issues, from the federal aviation administration, the chief of the Idaho division of aeronautics, the Payette Airport Commission, and the Boise airport commission and an aviation easement approved by the Boise airport commission.
6. Propagation charts showing existing and proposed transmission coverage at the subject site and within an area large enough to provide an understanding of why the facility needs to be in the chosen location.
7. A written analysis demonstrating that the proposed site is the most appropriate site within the immediate area. For the purposes of this subsection, the analysis shall include all properties within the search radii stated above. The analysis shall include, but is not limited to, the following:
 - a. Description of the surrounding area, including topography;
 - b. Natural and manmade impediments that would obstruct adequate cellular telephone transmissions;

- c. Physical site constraints that would preclude construction of a cellular telephone facility on any other site;
- d. Technical limitations of the system that limit siting options.

17.85.110 PERMITS:

- A. It shall be unlawful for any person to erect, construct, re-erect, or replace, any tower without first making application to the city and securing a building/zoning permit.
- B. A building/zoning permit shall not be required for antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick up operations. Temporary antennas shall be permitted for a maximum of seventy-two (72) hours unless specifically approved otherwise by the Planning and Zoning commission.
- C. In addition to the findings required and conditions permitted for conditional use permits, in of this title, the commission shall make an additional finding concerning the duration of the conditional use permit. Upon finding that the conditional use permit is to be limited in duration, a condition limiting the duration and the basis for such a condition shall be included within the findings of fact and conclusions of law for the conditional use permit.

17.85.120 ADDITIONAL REQUIREMENTS FOR NOTICE OF PUBLIC HEARING:

- A. All personal wireless facilities requiring a conditional use permit shall comply with the conditional use notice requirements within this code with the following additional requirements:
 - 1. All property owners within five hundred feet (500') of a residential zone, and seven hundred fifty feet (750') of C, C-1, C-2 zones, and one thousand feet (1,000') of I and T zones, of all property lines of the site (or lease boundary lines, if applicable) shall be notified of the public hearing by the city, by mail, a minimum of fifteen (15) days before the scheduled public hearing. The applicant will be required to provide the names of the property owners to the city.

~~17.85.130 RESTRICTED AREAS:~~

~~Telecommunications towers in excess of thirty-five feet (35') in height shall not be permitted within the "restricted area for telecommunications towers" as shown on exhibit A attached to the ordinance codified herein.~~

17.85.140 HEIGHT

The height of personal wireless facilities, spires, poles, antennas, steeples, towers, and similar structures shall be determined by measuring the vertical distance from the point of contact with the ground to the highest point of the structure, including any vertical projection thereof. When mounted upon other structures, the combined height of the personal wireless facility, spire, pole, antenna, steeple, tower, and/or similar structure, including the height of the structure mounted upon, shall be used to determine height. The height of the buildings shall be determined under this code.

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.

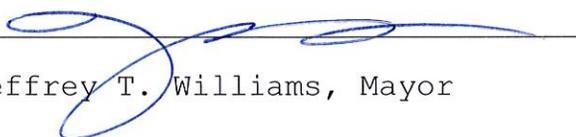
Section 9. Any ordinances or resolutions which are in conflict with this Ordinance are hereby repealed, but only insofar as the conflict exists.

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.

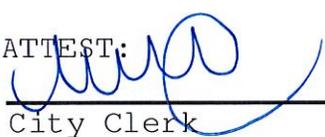
PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 22nd day of February, 2017.

CITY OF PAYETTE, IDAHO

BY


Jeffrey T. Williams, Mayor

ATTEST:



City Clerk