

ORDINANCE NO. 733

BY THE COUNCIL: BARRIE, EGO, HILDEBRANDT, BASKETT, GUNDERSON AND ADAMS

AN ORDINANCE OF THE CITY OF PAYETTE, REGULATING THE SALE OF FIREWORKS IN THE CITY OF PAYETTE, AND REPEALING SECTIONS 7-3-1, 7-3-2, 7-3-3, PAYETTE CITY CODE.

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

Section 1. Sections 7-3-1, 7-3-2, 7-3-3, Municipal Code, are hereby repealed.

Section 7-3-4. Fireworks. "Fireworks" shall include blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, fire balloons, balloons of a type which have burning material of any kind attached thereto or which require fire underneath to propel them, firecrackers, torpedoes, skyrockets, rockets, Roman candles, fountains, wheels, Dago bombs, sparklers, and other fireworks of like construction and any fireworks containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, deflation, explosion or detonation.

Exempted from this part are all toy pistols, toy cannons, toy canes and toy guns and similar devices such as party poppers or party favors in which paper caps containing not more than twenty-five hundredths (.25) grains of explosive compound per cap are used and such caps whether single, roll, or tape type.

Section 7-3-5. Dangerous Fireworks. "Dangerous Fireworks" includes any of the following:

- (a) Firecrackers, cannon crackers, giant crackers, salutes, silver tube salutes, cherry bombs, mines, ground bombardment, grass-hoppers and other explosive articles of similar nature;
- (b) Blank cartridges;
- (c) Skyrockets and rockets, including all similar devices employing any combustible or explosive material and which rise in the air during discharge;
- (d) Roman candles, including all devices which discharge ball of fire into the air;
- (e) Chasers and whistles, including all devices which dart or travel about the surface of the ground during discharge;
- (f) Snakes and hats containing bichloride of mercury;
- (g) Sparklers more than ten (10) inches in length or one-quarter ($\frac{1}{4}$) inch in diameter;
- (h) All articles of pyrotechnic display such as aerial shells, salutes, flash shells, sky battles, parachute shells, mines, Dago bombs and similar devices;
- (i) All torpedoes which explode by means of friction; or which contain arsenic, and all other similar fireworks devices including cracker balls;
- (j) Fire balloons or balloons of any type which have burning material of any kind attached thereto.

Section 7-3-6. Safe and Sane Fireworks. "Safe and sane fireworks" includes any of the following:

- (a) Cone fountains with pyrotechnic composition not exceeding fifty (50) grams each;
- (b) Cylindrical fountains, whether base, spike or handle, with pyrotechnic composition not exceeding seventy-five (75) grams each and inside tube diameter not exceeding three-quarters (3/4) inch;
- (c) Sparklers and 'dipped sticks' not more than ten (10) inches in length or one-quarter (1/4) inch in diameter made on steel or iron wire and Suzuki and Morning Glories with pyrotechnic composition not exceeding four (4) grams each;
- (d) Snakes which do not contain bichloride of mercury and pyrotechnic composition not exceeding two (2) grams each;
- (e) Wheels with pyrotechnic composition not exceeding sixty (60) grains for each driver unit or two hundred forty (240) grains for each complete wheel. The inside tube diameter of driver unit shall not exceed one-half (1/2) inch;
- (f) Whistles, without report and which do not dart or travel about the ground during discharge with pyrotechnic composition not exceeding six (6) grams and containing no picric or gallic acid.

Section 7-3-7. It shall be unlawful for any person in the City of Payette to import, export, offer for sale, sell, possess, keep, or store or permit the keeping or storing of any 'dangerous fireworks' for any use or purpose, except that a person holding a Dangerous Fireworks Permit issued pursuant to the terms and conditions of this ordinance may use 'dangerous fireworks' for a safely supervised and conducted public display of fireworks. Said fireworks may be stored for a period not exceeding ten (10) days immediately preceding the date of said public display, provided the fireworks are to be used exclusively for public display.

Section 7-3-8. No person, firm or association, without having a valid 'Safe and Sane Fireworks permit' issued pursuant to terms and conditions set forth in this ordinance shall import, export, possess for the purpose of sale, offer for sale, or sell 'safe and sane fireworks' for any use or purpose.

Section 7-3-9. Any reputable person, association, firm or corporation in reasonable pursuit or furtherance of any legitimate personal, business or charitable purpose, desiring to engage in the sale of 'safe and sane fireworks' within the City shall first make written application to the City Clerk for a 'safe and sane fireworks permit.' Each applicant shall pay to the City Clerk a fee of Ten and No/100 (\$10.00) Dollars at the time he files his application. At the time and as a condition of such filing, and with each application, each applicant shall pay an additional fee to defray costs of preliminary investigations required hereunder which fee shall be Fifteen and No/100 (\$15.00) Dollars per site applied for, and shall not be refundable in any event.

Section 7-3-10. Any reputable person, association, firm or corporation in reasonable pursuit or furtherance of any legitimate personal, business, or charitable purpose desiring to make a public display of 'dangerous fireworks' shall first make written application to the City Clerk for a 'dangerous fireworks permit.' Each applicant shall pay to the City Clerk a fee of One and No/100 (\$1.00) Dollar at the time he files his application. In the event no 'dangerous fireworks permit' is issued by the City of Payette in the year during which the application is made, the City Clerk shall refund the application fee. The applicant shall also reimburse the city for all reasonable expenses incurred in investigating to determine whether the permit should be granted.

Section 7-3-11. Each applicant for a 'safe and sane fireworks permit' or a 'dangerous fireworks permit' shall file his application with the City Clerk. Each application shall show the following:

- (a) Name and address of applicant.
- (b) The purpose for which the applicant is primarily existing and which it was organized.
- (c) The names and addresses of the officers, trustees, and/or directors, if any, of the applicant.
- (d) The location where the applicant requests permission to sell 'safe and sane fireworks' or display 'dangerous fireworks'.
- (e) When and where the applicant was organized and established, or, if a natural person, the applicant's age.
- (f) The location of the applicant's principal and permanent meeting place or places, or principal place or places of business.
- (g) The applicant's State Sales Tax Permit number.
- (h) If the applicant is an entity other than a sole proprietorship, the name and general description of the business activities of each parent or subsidiary company, business or entity, and a general description of the ownership organization of each parent or subsidiary, if any.
- (i) Such other information as the City Clerk may require on a standard form submitted to all applicants and which is reasonably necessary to protect the public health, safety and morals.

Section 7-3-12. The City Clerk shall notify the Fire Department which department in confidence with the City Clerk shall cause an investigation to be made of each application and applicant and shall submit a written report of its findings and recommendations for or against the issuance of the permit, together with the reason therefore, to the City Council, which report shall not be a public information except on request of the applicant or by order of the Mayor or City Council.

Section 7-3-13. The City Council shall have the power in its discretion to grant or deny any application, subject to such reasonable conditions, if any, as it shall prescribe so long as the denial of the application or any conditions imposed on the granting of the application are reasonably necessary for protection of the public health, safety and morals.

Section 7-3-14. A 'safe and sane fireworks permit', or a 'dangerous fireworks permit' issued pursuant to this ordinance shall be valid only within the calendar year in which issued. A permit shall be valid only within the calendar year in which issued. A permit shall be valid only for the specific premises or location designated in the permit. However, subject to reasonable conditions necessary for protection of the public health, safety and morals, an applicant may be granted permits for more than one premises or location within the City. No permit shall be transferable or assignable.

Section 7-3-15. Each application for a permit to sell 'safe and sane fireworks' at retail shall be filed with the City Clerk on or before June 10 of the calendar year for which the permit is sought; except that for the calendar year of 1969, applications for a permit may be filed on or before June 10, 1969.

Section 7-3-16. Each applicant for a 'safe and sane fireworks permit' or for a 'dangerous fireworks permit', shall have filed with the City Clerk prior to the issuance and validity of any permit, a policy, or certified true copy thereof, of public liability and products liability insurance, including

both 'accident' and 'occurrence' coverage. The insurance coverage limits for both public liability coverage and for products liability coverage shall be at least \$100,000 per person per occurrence bodily injury, \$300,000 per occurrence aggregate bodily, and \$100,000 per occurrence aggregate property damage. Each policy of insurance shall be in form and substance acceptable to the City, and shall name as insured parties under the terms of the policy of the City of Payette, all officials, elected and appointed, of the City of Payette, in performance of official functions regarding all operations under or pertaining to said permit, any licensee or licensor of the applicant, and all vendors of fireworks covered by the permit to be issued to the applicant. Said policy of insurance shall be so written that it cannot be cancelled without at least thirty (30) days prior written notice to the City of Payette, from the underwriting insurance company. The policy of insurance shall be underwritten through or by a qualified and duly licensed insurance company or companies doing or authorized to do business in Idaho, and a copy of said policy shall be filed with the City Clerk prior to the issuance of the permit.

Section 7-3-17. No 'safe and sane fireworks' shall be sold or offered for sale except from 12:00 noon on the 15th day of June to midnight on the 5th day of July of each year.

Section 7-3-18. All retail sales of 'safe and sane fireworks' shall be permitted only from within a temporary fireworks stand, and approved business structures.

1. Temporary stands shall be subject to the following provisions:
 - (a) No fireworks stand shall be located within 25 feet of any building nor within 100 feet of any gasoline station.
 - (b) All stands shall meet the structural stability requirements of the building ordinance of the City of Payette and all lighting circuits and other electrical equipment shall meet the requirements of the electrical ordinance of the City of Payette.
 - (c) No stand shall have a floor area in excess of 750 square feet.
 - (d) Stands shall have exit doors at least 30 inches wide at both ends of the structure and one additional door for each 25 feet of rear wall in excess of 24 feet. All doors shall open outward from the stand and all doorways shall be kept free and clear from all supplies and materials at all times.
 - (e) Each stand shall be provided with two (2) 2½ gallon 'soda and acid' type fire extinguishers, in good working order, and easily accessible for use in case of fire.
 - (f) There shall be at least one supervisor, 21 years of age or older, on duty at all times. No person under 18 years of age shall be allowed inside the stand at any time nor shall any person under 18 years of age work at or about any premises where 'safe and sane fireworks' are sold or offered for sale.
 - (g) 'NO SMOKING' signs shall be prominently displayed both inside and outside the stand. No smoking shall be permitted within the stand, or within 15 feet of the stand.
 - (h) No stand shall be erected before June 10 of any year. The premises on which the stand is erected shall be cleared of all structures and debris, not later than noon of the 6th day of July.
 - (i) No fireworks shall be discharged in or within 25 feet of any fireworks stand.
 - (j) No person shall allow any rubbish to accumulate in or around any fireworks stand or permit a fire nuisance to exist.

- (k) No fireworks shall remain unattended at any time regardless of whether the fireworks stand is open for business or not. If any fireworks are stored, they shall only be stored at such places as are approved for storage of fireworks by the City Fire Inspector.

2. Permanent business structures from which 'safe and sane fireworks' are to be sold shall be subject to the following provisions:

- (a) All such buildings shall meet the structural stability requirements of the building regulations of the City of Payette and all lighting circuits and other electrical equipment shall meet the requirements of the electrical regulations of the City of Payette.
- (b) The building shall have exit doors at least 30 inches wide on two different walls and shall otherwise conform to the exit regulations established by the City building regulations for structures of the size and nature of said building. All doors shall open outward and all doorways shall be kept free and clear from all supplies and materials at all times.
- (c) Each building shall be provided with such number of fire extinguishers as the Fire Chief of the City of Payette shall deem adequate, but in all cases the number shall be not less than two (2). The fire extinguishers shall be 2½ gallon 'soda and acid' type extinguishers or other types approved by the Fire Chief. The fire extinguishers shall be in good working order, easily accessible for use in case of fire, and kept in immediate proximity to the location where the fireworks are retailed.
- (d) There shall be at least one supervisor, twenty-one (21) years of age or older, on duty at all times. All fireworks shall be screened or otherwise effectively segregated from any kind of self service by the public, and shall be placed in a location which is unavailable and inaccessible to members of the public in capacities other than as legal customers. No person under eighteen (18) years of age shall be allowed at any time inside the screened or otherwise segregated area where the fireworks are located.
- (e) 'NO SMOKING' signs shall be prominently displayed both inside and outside the screened or otherwise segregated area. No smoking shall be permitted within the screened or otherwise segregated area or within fifteen (15) feet of such area.
- (f) No fireworks shall be discharged in or within twenty-five (25) feet of the screened or segregated area where fireworks are kept.
- (g) No person shall allow any rubbish to accumulate, or permit a fire nuisance to exist in or around the area where fireworks are sold.
- (h) If fireworks are stored, they shall only be stored in such places as are approved for storage of fireworks by the Fire Chief.
- (i) No building where alcoholic beverages are sold for consumption on the premises shall be used for the retail sale of safe fireworks.
- (j) The City Council may establish other regulations for permanent structures where fireworks are to be sold so long as said regulations are reasonably necessary to protect the public health, safety and morals, and apply uniformly to all applicants.

Section 7-3-19. Each permittee shall be required to retain at the licensed premises while said premises are open, and at his principal place of business for a year thereafter, copies of all invoices, receipts and orders evidencing the source from which he acquired the fireworks which he handled.

Section 7-3-20. The applicant shall post with the City Clerk a cash bond or cash deposit in the amount of not less than Fifty and No/100 (\$50.00) Dollars or such other security as may be acceptable to the Mayor or Council conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of debris from the site of the temporary fireworks stand, which deposit or security shall be returned to the applicant only in the event he re-removes said temporary fireworks stand and cleans up all debris to the satisfaction of the Payette City Fire Chief or such other official as the City Council or Fire Chief may designate. In the event of the applicants failure to so remove the stand and debris, said cash bond or cash deposit shall be forfeited to the City of Payette. In no event shall the applicant be entitled to the return of said cash bond or cash deposit if he has failed to remove said temporary fireworks stand and clean up all debris by noon of the 6th day of July of the year in which the permit is granted, and failure to do so shall constitute a misdemeanor.

Section 7-3-21. It shall be the duty of every person issued a 'Fireworks Permit' to comply with all the provisions of the State Fireworks Law and this chapter. The violation of the aforesaid State Fireworks Law or any of the provisions of this chapter by the permittee, or by any of its agents, employees, or officers shall constitute a cause, in and of itself, to deny any subsequent application for a permit. Any person found guilty of violating the provisions of this chapter shall be guilty of a misdemeanor and punishable in accordance with the provisions of Chapter 3, Title 1 of this Code.

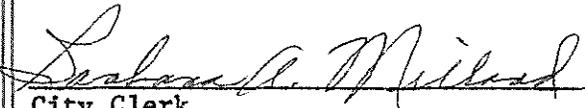
Section 7-3-22. This ordinance shall be in full force and effect from and after its passage, approval and publication, and repealing all ordinances or parts of ordinances or sections of the Fire Prevention Code in conflict herewith.

PASSED By the Council of the City of Payette this 2nd day of June, 1969.

APPROVED By the Mayor of the City of Payette this 2nd day of June, 1969.

ATTEST:


L. V. Josephson, Mayor of the City of Payette, Idaho


City Clerk