

ORDINANCE NUMBER 1210

AN ORDINANCE OF THE CITY OF PAYETTE, IDAHO, REPEALING CHAPTER 8.20 OF THE PAYETTE CITY CODE AND ADOPTING A NEW CHAPTER 8.20; ORDINANCE 1210 CREATES DEFINITIONS; IT PROHIBITS THE USE OR SALE OF FIRE WORKS IN THE CITY LIMITS; THE ORDINANCE MAKES IT UNLAWFUL TO SELL, USE OR DISCHARGE FIRE WORKS EXCEPT DURING SPECIFIC TIMES; THE ORDINANCE MAKES A PERSON WANTING TO SELL FIREWORKS TO SUBMIT AN APPLICATION AND IT SETS OUT THE CONTENTS OF THE APPLICATION; THE ORDINANCE REQUIRES THE INVESTIGATION OF AN APPLICANT; IT SETS OUT STANDARDS FOR DENIAL OR APPROVAL OF A PERMIT; THE ORDINANCE LIMITS SALES TO TEMPORARY STANDS AND SETS STRUCTURAL STANDARDS FOR THOSE STANDS; IT SETS SAFETY STANDARDS FOR TEMPORARY STANDS; THE ORDINANCE ALLOWS THE COUNCIL TO SET FEES BY RESOLUTION; IT REQUIRES AN APPLICANT TO POST A PERFORMANCE BOND; PROHIBITS STORAGE AND REQUIRES REMOVAL OF FIREWORKS; IT EXCEPTS CERTAIN CAP GUNS FROM THE REQUIREMENTS OF THE ORDINANCE; REQUIRES LIABILITY INSURANCE; ALLOWS THE FIRE CHIEF TO DESIGNATE HAZARDOUS AREAS WHERE NO FIRE WORKS WILL BE ALLOWED; PROHIBITS THE USE OF FIRE WORKS IN PUBLIC AREAS WITHOUT A PERMIT; ADOPTS SECTION 39-2611 OF THE IDAHO CODE; ADOPTS THE IDAHO CODE REGARDING FIREWORKS; THE ORDINANCE SETS AN EFFECTIVE DATE; ESTABLISHES SEVERABILITY; ESTABLISHES A REPEALER; ALLOWS FOR PUBLICATION BY SUMMARY;

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

Section 1: Chapter 8.20 of the Payette City Code is hereby repealed.

Section 2: There is hereby created a new Chapter 8.20 of the Payette City Code, which Chapter shall consist of sections 8.20.010 through 8.20.150 and which chapter and sections shall read as follows.

Chapter 8.20

FIREWORKS

Sections:

- 8.20.010 Definitions-adopted from Idaho Code.
- 8.20.020 Prohibition-exception-permit.
- 8.20.030 Dates of Sale and Use.
- 8.20.040 Permit-application-contents.
- 8.20.050 Applicant- investigation-standards.
- 8.20.060 Fees set by resolution.
- 8.20.070 Performance bond required.
- 8.20.080 Storage limitations-removal.
- 8.20.090 Exceptions to chapter requirements.
- 8.20.100 Record keeping required.
- 8.20.110 Liability insurance requirement.

- 8.20.120 Prohibition against storage in hazardous area.
- 8.20.130 Prohibition against usage in certain areas-penalty
- 8.20.140 Adopting Section 39-2611 Idaho Code.
- 8.20.150 Requiring compliance with title 26 chapter 39 Idaho Code

8.20.010 Definitions. The definitions of fireworks, nonaerial common fireworks and special fireworks as set out in Section 39-2602(3), (6) and (8) are hereby adopted by reference and incorporated hereat for use in this chapter.

8.20.020 Prohibition-Exception-Permit. It is unlawful for any person within the City of Payette to import, export, offer for sale, sell, have, possess for any use or purpose, keep, store or permit the keeping or storing of fireworks, other than nonaerial common fireworks, for any use or purpose, except that a person holding a special fireworks permit issued pursuant to this Chapter may use special fireworks for a safely supervised and conducted public display of fireworks. Temporary storage of special fireworks shall not be permitted in the City of Payette,

8.20.030 Dates of Sale and Use- HOURS OF SELLING: A person who does not possess a valid fireworks permit issued pursuant to this Chapter shall not import, export, possess for the purpose of sale, offer for sale, or sell any fireworks for any use or purpose. No fireworks shall be sold or offered for sale or discharged within the City except between twelve o'clock (12:00) noon, June 23 and twelve o'clock (12:00) midnight July 5 of each year or except between twelve o'clock (12:00) noon December 26, and twelve o'clock (12:00) midnight January 1, Or, except as provided for in subsection 8.20.040D of this Chapter.

8.20.040: PERMIT- APPLICATION- CONTENTS.

A. Any person desiring to sell nonaerial common fireworks shall file his application for a permit with the City Clerk no later than June 10 of any year.

B. Any person desiring to make a public display of special fireworks, other than nonaerial common fireworks, within the City shall file his application for a permit with the City Clerk at least twenty (20) days in advance of the proposed event.

C. Each application for a permit pursuant to this Section shall contain the following information:

1. The name and address of applicant;
2. The names and addresses of the officers, if any, of the applicant;
3. The location where the applicant will sell fireworks;
4. The name and address of any wholesaler or distributor from whom the retailer proposes to purchase fireworks for resale;
5. The applicant's State sales tax permit number;
6. The manner, methods, and times when and how the applicant proposes to sell fireworks;
7. A drawing depicting the stand dimensions, location of the

stand on the property with setbacks from property lines, and uses of adjacent properties.

8. 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.

D. Any person desiring to use fireworks as part of a play or similar theatrical production shall first obtain a permit following the same procedures as set out in subsection C of this Section, which permit shall not be issued until all of the requirements of Idaho Code section 39-2605(1)(a) and (4) are met.

8.20.050: APPLICANT- INVESTIGATION- PERMIT APPROVAL OR DENIAL STANDARDS: The Director of the Department of Public Safety, the Fire Chief or their designee shall cause an investigation to be made of each application and submit to the Council a report of those findings and recommendations for or against the issuance of the permit. The 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 and subject to the following conditions:

A. Retail sale of fireworks to be permitted from temporary stands only. Except as may be provided for in section 8.20.050 O. below, no sales shall be permitted from permanent buildings or structures;

B. Temporary stands need not comply with the requirements of the Building Code of the City; provided, however, that all such stands shall be erected under the supervision of the Fire Chief or his designee and shall meet any structural stability requirements set by the City as they pertain to temporary structures. Stands shall be constructed in a safe manner and of such materials as will ensure the safety of the attendants, patrons and other persons. If wired for electricity, the wiring must conform to the Electrical Code of the City and the State of Idaho;

C. Each stand shall have at least two (2) exits at least thirty inches (30") wide which shall be unobstructed at all times and one additional exit for each thirty two feet (32') of rear wall area in excess of twenty five feet (25'). All doors shall open outward and be free and clear at all times;

D. Each stand shall have at least two (2) fire extinguishers with a 2-A rated minimum rating or other type fire extinguishers approved by the Fire Chief or his designee. The extinguishers shall be located in a readily accessible place and shall be charged and in good working order.

E. No smoking shall be permitted in or within twenty five feet (25') of a fireworks stand. "NO SMOKING" signs shall be prominently displayed both inside and outside a fireworks stand and in a manner approved by the Fire Chief or his designee.

F. All weeds, grass and other combustible material shall be cleared from the fireworks stand and for a distance of not less than twenty feet (20') on each side of the stand;

G. Fireworks stands shall not be located within twenty five feet (25') of any other building or structure nor within fifty feet

(50') of the property line of any gasoline station, oil storage tank or premises where inflammable liquids are kept or stored, nor within one hundred feet (100') of fuel-dispensing devices;

H. Each fireworks stand shall have an adult supervisor in attendance at all times. No child or children under the age of sixteen (16) years shall be allowed inside any fireworks stand at any time, nor shall any child under the age of sixteen (16) years be allowed to sell fireworks;

I. Fireworks stands shall be located only in those areas within the City where business or commercial activities are authorized;

J. Fireworks shall not be discharged, ignited or exploded within one hundred feet (100') of any fireworks stand, gasoline station, oil storage tank or premises where inflammable liquids are kept or stored;

K. No fireworks stand shall have a floor area in excess of seven hundred fifty (750) square feet;

L. If merchandise is left in the stand when not open for business, an adult night watchman shall be present at the location. No person employed as a watchman shall be permitted to remain inside any stand when it is not open for business.

M. No person shall allow any rubbish to accumulate, or permit a fire nuisance to exist in or around the area where fireworks are sold.

N. No building where alcoholic beverages are sold for consumption on the premises shall be used for the retail sale of safe fireworks.

O. The 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.

8.20.060: PERMIT- FEE- By resolution, the City Council shall set the fee for permits to sell fireworks, to have public displays or for any other fireworks related activity for which a fee may be charged, which fee shall be paid to the Clerk before issuance of the permit.

8.20.070: PERFORMANCE BOND REQUIRED: An applicant for retail sale of fireworks shall post cash or a bond of one hundred dollars (\$100.00) with the City prior to issuance of a permit to guarantee removal of the temporary fireworks stand and all rubbish and debris from the premises, the acts to be completed not later than July 10 of each year. In event of failure of the person holding the permit to remove the stand, rubbish and debris to the satisfaction of the Fire Chief, the bond shall be forfeited to the City. In no event shall the applicant be entitled to the return of said cash bond or cash deposit if applicant has failed to remove said temporary fireworks stand and clean up all debris by noon of the tenth (10) day of July of the year in which the permit is granted, and failure to do so shall constitute a misdemeanor.

8.20.080: STORAGE: Storage of any class of fireworks prior to display or sale and unsold stocks of fireworks remaining after the lawful period of sale as provided by permit shall be only in such places of storage as the Fire Chief issuing the permit shall approve. Unsold stocks of fireworks remaining after the authorized retail sales period shall be removed from the City on or before July 26.

8.20.090: EXCEPTIONS TO CHAPTER PROVISIONS: Toy guns and similar devices using caps containing not more than twenty five one-hundredths (0.25) grains of explosive per compound cap are excluded from the operation of this Chapter.

8.20.100: Permittee--Record keeping duty. 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 were sold within the City limits.

8.20.110: Liability insurance requirements. Before the City clerk issues any permit or before any permit becomes valid an applicant shall first file with the City clerk a public liability and products liability insurance policy, or a true copy thereof, which insurance includes both "accident" and "occurrences" coverage. The insurance coverage limits for both public liability coverage and for products liability coverage shall be at least one hundred thousand dollars (\$100,000.00) per person per occurrence, three hundred thousand dollars (\$300,000.00) per occurrence aggregate for personal injury, and one hundred thousand dollars (\$100,000.00) per occurrence for aggregate property damage. Each policy of insurance shall be in a form and substance acceptable to the City and shall name as insured parties under the terms of the of the policy all City officials, elected and appointed, while in the performance of official functions regarding all operations 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 canceled without at least thirty days' prior written notice to the city from the underwriting insurance company. The policy of insurance shall be underwritten through or by a qualified and duly licensed insurance company or companies authorized to do business in the state, and a copy of said policy shall be filed with the city clerk prior to the issuance of the permit. For public displays the insurance requirement shall be one million dollars (\$1,000,000.00) for aggregate personal injury and property damage.

8.20.120: Fireworks shall not be stored, kept, possessed, used or deployed in any area which is designated as a hazardous fire area by the Fire Chief. The Fire Chief, or his designee, is hereby

authorized to seize any fireworks, whether on display, being used, possessed, stored or simply kept if they are in a hazardous fire area.

8.20.130: FIREWORKS PROHIBITED: A. Except when permitted as a public display pursuant to Sections 8.20.040 and 8.20.050 of this Chapter, it is unlawful for any person to have in his or her possession or to use fireworks of any kind at any time in any City Park, any City Park parking lot, the band shell, any City property, the swimming pool, any school, any school parking lot, or upon any public property. B. Any violation of this Section shall be a misdemeanor public offense punishable by a fine not to exceed three hundred dollars (\$300.00).

8.20.140: Section 39-2611 of the Idaho Code imposing liability upon parents and guardians for damages caused by minors is hereby adopted in full verbatim.

8.20.150 Adoption of state fireworks code--Permittee--Compliance with state fireworks law required---penalty. Chapter 26 of Title 39 of the Idaho State Code is adopted in full. It shall be the duty of every person issued a fireworks permit to comply with all the provisions of the state fireworks law and of this chapter. Any violation of the state fireworks law or any of the provisions of this chapter by any 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 may be punished in accordance with the misdemeanor provisions of Idaho Code.

Section 3. This Ordinance shall be in full force and effect immediately upon passage and publication as required by law.

Section 4. Any ordinances or resolutions which are in conflict with this ordinance are hereby repealed, but only insofar as the conflict exists.

Section 5. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall constitute Ordinance Number 1210.

Section 6. This ordinance may be published in summary as allowed by Idaho Code.

CITY OF PAYETTE

By Mark L. Helke  
Mayor

ATTEST: John P. Franks  
City Clerk

## SUMMARY OF ORDINANCE 1210

Ordinance 1210 is an ordinance of the City Of Payette, Idaho, adopted June 3, 2002. The ordinance may be descriptively known as the Payette City Fireworks Ordinance.

Ordinance 1210 repeals the presently existing chapter 8.20 of the Payette City Code and adopts a new chapter 8.20. Ordinance 1210 creates definitions, it prohibits the use or sale of fire works within the city limits, and makes it unlawful to sell, use or discharge fire works except during specific times. The ordinance requires a person wanting to sell fireworks to submit an application with the City and it sets out the contents of the application. The ordinance requires an investigation into the background of an applicant, it sets out standards for denial or approval of a permit and limits sales to temporary fireworks stands. The Ordinance sets structural standards for those stands. Ordinance 1210 sets safety standards for temporary stands, allows the Payette City Council to set fees by resolution, requires an applicant to post a performance bond, prohibits storage of fireworks and requires removal of fireworks after a certain time. It excepts certain cap guns from the requirements of the ordinance, requires liability insurance for sellers, allows the fire chief to designate hazardous areas where no fire works will be allowed, prohibits the use of fire works in public areas without a permit and adopts section 39-2611 of the Idaho Code. The ordinance adopts the fireworks portion of the Idaho Code. It sets an effective date, establishes severability, establishes a repealer, allows for publication by summary and creates a penalty. The ordinance becomes effective immediately upon passage and publication.

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1210 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 6th day of June, 2002.



Bert L. Osborn