

PAYETTE COUNTY, IDAHO

ORDINANCE NO. 2023-_____

AN ORDINANCE OF PAYETTE COUNTY, IDAHO, ADOPTING A NEW CHAPTER 8 IN TITLE 4 OF THE PAYETTE COUNTY CODE ENTITLED “OPEN BURNING”; 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.

BE IT ORDAINED BY THE PAYETTE COUNTY BOARD OF COUNTY COMMISSIONERS AS FOLLOWS:

SECTION 1. Adoption of New Chapter 8 to Title 4, Public Health and Safety.

The Payette County Code of Ordinances is hereby amended to add the following new Chapter 8 under Title 4, Public Health and Safety:

Chapter 8
OPEN BURNING

- 4-8-1. Purpose
- 4-8-2. Definitions
- 4-8-3. Open Burning Prohibited; Exemptions.
- 4-8-4. Prohibited Burning.
- 4-8-5. Enforcement and Penalties.

4-8-1. Purpose.

The purpose of this ordinance is to provide for the health and safety of Payette County citizens, as well as to protect property within Payette County by preventing dangerous fires pursuant to County authority under Idaho Code section 31-714.

4-8-2. Definitions.

OPEN BURNING: The burning of any materials wherein the products of combustion are emitted into the ambient air without passing through a stack, chimney, or spark arrester from an enclosed chamber.

ATTENDED: The term “attended” as used under this chapter shall mean actively supervised, and responsibly ignited with proper fire management precautions. All flames, embers, coals, sparks, or hot spots shall be completely and fully extinguished such that they cannot reignite.

4-8-3. Open Burning Prohibited; Exemptions.

Open burning shall be prohibited in the County from July 1 through October 1 or as determined by resolution of county commissioners.

- A. Exemptions. This chapter shall not apply to open burning that is:

1. Authorized for agricultural purposes by the Idaho Department of Agriculture.
2. Ditch banks and fence rows when attended and controlled.
3. Authorized pursuant to a permit or license issued by any other local, State or Federal governmental agency of competent jurisdiction.
4. Conducted by any employee, contractor or agent of any local, State or Federal governmental agency in the course of performing their official duties or employment.
5. Authorized by and in compliance with federal regulations on federal land.
6. Recreational fires, which shall include a defined area, container or structure designated for the burning of solid fuel, natural gas or propane. The fire must be contained within a non-combustible barrier consisting of stone, brick, concrete, metal or similar noncombustible material in such a manner to prevent the escape of combustible materials and which shall be attended as defined above.
7. Cooking fires which shall include the burning of conventional fuel materials such as charcoal, natural or propane gas, or wood pellets, to cook food in a receptacle such as a barbeque grill, or barbeque pit which was originally designed or manufactured for such a purpose.
8. Residential burning, including the use of burn barrels, in enclosed receptacles with appropriate spark arrestor or screen.
9. Commercial fireworks as permitted by Idaho Code section 39-2605; or in-season fireworks as permitted by Idaho Code section 39-2606 and/or Payette County Ordinance 5-3-4. All other uses are prohibited.

4-8-4. Prohibited Burning.

The following shall be prohibited from burning at all times:

1. Plastics.
2. Dead animals or animal waste.
3. Materials from vehicles such as junk motor vehicles or parts, tires, and other rubber material.
4. Construction material such as asphaltic materials, tar and petroleum materials, paints, treated wood, and insulated wire.
5. Trade waste including any waste generated by construction, commercial, or industrial activity.

4-8-5. Enforcement, Penalties and Costs.

- A. Nothing in this chapter shall be construed to limit any expense, penalty, or liability assessed by any other local, State, or Federal governmental agency.
- B. The provisions of this chapter may be enforced by the Sheriff and/or any peace officer of the State of Idaho authorized by the Sheriff. In addition, the Sheriff and/or any peace officer of the State of Idaho authorized by the Sheriff, is authorized to extinguish or cause to be extinguished any open fire ignited or maintained in violation of this chapter.
- C. Operation Of Other Laws Not Affected: Nothing in this chapter or any permit shall exempt any person from the operation of or compliance with any other State, Federal or local law, regulation or ordinance.
- D. No Liability: Payette County, its officials, employees and agents shall not be liable for any claim or cause, regardless of the nature thereof, arising directly or indirectly from the granting or denial of any permit under this chapter or performance of any official duty hereunder.
- E. A violation of any of the provisions of this chapter shall be an infraction upon a first violation, punishable by a fine as set forth for “other infractions” in the Idaho Infraction Rule 9 (Idaho Infraction Penalty Schedule) and shall be a misdemeanor upon a subsequent conviction within five (5) years. Provided, however, a violation of this chapter where property damage to a third party occurs shall be a misdemeanor. A misdemeanor shall be punishable by imprisonment in a county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars (\$1,000), or by both.

SECTION 2. This Ordinance may be published in summary form as permitted by the State of Idaho.

SECTION 3. 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 4. This Ordinance shall prevail and override any and all conflicts with other ordinances or resolutions of Payette County to the extent necessary to resolve the conflict.

SECTION 5. If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason by a court of competent jurisdiction, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

PASSED and APPROVED BY THE Board of County Commissioners of Payette County, Idaho
this ____ day of _____, 2023.

BOARD OF COUNTY COMMISSIONERS
PAYETTE COUNTY, IDAHO

By _____

Vacant

By _____

Jennifer Riebe

By _____

Anne-Marie Kelso

ATTEST: _____

Lindsey Bratcher, County Clerk