

Valley County Board of County Commissioners

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ORDINANCE #08-01

AN ORDINANCE OF VALLEY COUNTY, IDAHO, CREATING AN ORDINANCE TO BE ADMINISTERED BY THE VALLEY COUNTY SHERIFF'S OFFICE AND TO BE KNOWN AS WATERWAY ORDINANCE FOR BIG PAYETTE LAKE WATERSHED, ESTABLISHING REGULATIONS FOR USE OF SAID WATERSHED IN ORDER TO PROMOTE AND PROTECT THE HEALTH, SAFETY AND GENERAL WELFARE OF CITIZENS OF THE COUNTY

WHEREAS, Residents of Valley County value the natural environment, including the special and high quality fresh water in Big Payette Lake which supplies the drinking water for the City of McCall and private home water systems around the lake; and

WHEREAS, Residents of Valley County value the peace and quiet associated with the lake experience; and

WHEREAS, Residents of Valley County desire to protect the area's natural environment as it contributes to tourism, to the overall economic well-being, and to the quality of life enjoyed and appreciated by both residents and visitors; and

WHEREAS, the Valley County Board of County Commissioners has determined that, in addition to State laws and regulations, the following Ordinance, is necessary to promote and protect the health, safety and general welfare of Valley County residents, visitors to the area and the general public; and

WHEREAS, the Valley County Board of County Commissioners has determined, through citizen reports and consultation with officials at the State of Idaho Department of Lands, Ponderosa State Park and with members of the Valley County Waterways Advisory Committee, that it is in the best interests of the Valley County citizens to institute these regulations; and

WHEREAS, improper operation of watercraft can impose a danger to citizens who use the waters or are adjacent to the waters of the watershed, and can diminish the quality of natural environment including the general peace and quiet of the watershed, its water quality, the stability of its shorelines and its suitability as diverse wildlife habitat in ways that will be mitigated by the terms of this ordinance; and

WHEREAS, Valley County Board of County Commissioners desires to inform residents and watershed users, boaters and swimmers on the Big Payette Lake Watershed by providing clearly articulated regulations, thus enabling a more compatible recreational experience; and

WHEREAS, these regulations for watercraft, diving, swimming and other uses of the Big Payette Lake Watershed will result in a safer, more pristine, pleasant and productive environment; and WHEREAS, the ordinance will not create excessive additional requirements for public facilities and services at public cost;

NOW, THEREFORE, BE IT ORDAINED BY THE VALLEY COUNTY BOARD OF COUNTY COMMISSIONERS THAT THE WATERWAY ORDINANCE FOR BIG PAYETTE LAKE WATERSHED TO BE ENFORCED BY THE VALLEY COUNTY SHERIFF'S OFFICE IS CREATED:

1.0 General Provisions:

A. Title -- This ordinance shall be known and may be cited as the Valley County Waterway Ordinance for Big Payette Lake Watershed.

B. Purpose – The general purpose of the Ordinance is to promote and protect the health, safety and general welfare and the quality of life of the public, and to protect public and private property and the quality of the natural environment and especially the water quality of the Big Payette Lake Watershed, by establishing regulations for the operation of watercraft and for other uses on the public waters of the Big Payette Lake Watershed in Valley County. This Ordinance establishes standards for vessel and watercraft use and operation as well as for swimming, diving, waterskiing and other uses, in order to accomplish the following:

1. To provide for a safe watershed for all users including abutting land owners;
2. To protect waters in the watershed against pollution from contaminants;
3. To protect the public and private property that abuts the watershed from erosion;
4. To conserve and enhance the habitat afforded by the watershed for avian, terrestrial and aquatic wildlife;
5. To assure continuance of the community's high quality of life that is closely associated with the lake and its watershed;
6. To preserve the high quality of life values that are associated with the general peace and quiet of the lake experience;

7. To work with all lakefront owners, watercraft users and owners, swimmers divers, water-skiers and others in order to bring all users into compliance with this Ordinance;
8. To work with all agencies and regulatory bodies functioning in or affecting Valley County in order to meet the purposes of this Ordinance.

2.0 Authority:

The provisions of this Ordinance are enacted pursuant to the general authority granted to the Board of County Commissioners by the Idaho Constitution, Article 12, Section 2, and the Idaho Code, Sections 31-714, 31-807 and 67-7031.3.0 Definitions:

Unless specifically defined below, words or phrases used in this Ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this Ordinance its most reasonable application.

Adult Supervision: Having a person age eighteen (18) years of age or over on or in a vessel. **Big Payette Lake Watershed:** For the purposes of this Ordinance, this is comprised of three water bodies: Big Payette Lake, Upper Payette Lake, and the North Fork of the Payette River above Big Payette Lake.

Big Payette Lake Watershed Watercraft Restricted Areas: Areas in which certain uses are regulated on the waters within the watershed. They include:

"No motor driven watercraft area," where no motor of any kind can be used to propel a watercraft.

"Restricted swimming area," where swimming and the operation of float tubes and other non-motorized devices not designed or modified to be used as a means of transportation, such as inflatable air mattresses, single inner tubes and beach and water toys, may be regulated.

"Restricted waterskiing area," where waterskiing may be regulated.

"Personal watercraft operational zone," as provided for under Idaho Code, Section 67-7031(4)(c), where personal water craft may be regulated as to no wake zones, exclusive use, no use, or distance of use from shoreline.

Big Payette Lake Watershed Watercraft Restricted Areas Map: A geographical representation of the areas in which certain uses are regulated on the waters within the watershed.

Big Payette Lake Watershed Watercraft Speed Map: A geographical representation of the speed limits allowed on the waters within the watershed.

Excessive, Dangerous or Damaging Wake: A wave of water or track of turbulence resulting from the passage of a vessel through the water that, by its size, height, speed, intensity, repetition or duration, is observed to, or could reasonably be expected to cause within the no-wake safe water zone or in designated swimming areas: property damage; shoreline erosion; damage to or dispersal of aquatic plants or navigational or safety hazard signage; harassment or endangerment of other boaters, swimmers or other water users.

House Boat: A vessel designed solely for live-aboard activities and powered solely by a motor or other mechanical device.

Live Aboard: The act of overnighting in or on a vessel that is anchored to the bottom of a water body or is attached or moored to a public or private dock, pier, mooring buoy or other structure. **Motor Driven Watercraft:** Any vessel of any type which is propelled by any type of motor or machinery.

Narrows, The: The west side of the channel between the north basin and the southwest arm of Payette Lake from "Simplot Point" to the south boundary of the settlement at "KP Cove"; and on the east side of that same channel from the exposed rocks known as "Hen and Chicks" north to the northern most point of Ponderosa State Park.

Night: From one hour after sunset until one hour before sunrise.

No Wake Safe Water Zone: A designated area where the operation of watercraft must be accomplished at not more than five (5) miles per hour and where no watercraft shall produce a wake greater than four inches (4") in height or a breaking wake showing whitewater.

Overnighting: Spending more than six (6) hours between sunset and sunrise in a vessel in order to rest, relax or sleep.

Personal Watercraft: A small vessel which uses an outboard motor or an inboard motor powering a water jet pump as its primary source of power and is designed to be operated by a person sitting, standing or kneeling on, rather than the conventional manner of sitting or standing inside the vessel.

Posted Area: An area which is a portion of the waters of Valley County, marked with regulatory markers in compliance with Idaho Code 67-7031, in order to regulate the actions of watercraft and persons.

Public Waters: Any river, lake or other body of water within Valley County other than those which are entirely privately owned, regardless of navigability.

Sheriff's Office: The Valley County Sheriff's Office.

Shoreline: The line of demarcation between water and land known as the Natural or Ordinary High Water Mark as established by the State of Idaho Department of Lands and as defined in IDAPA 20.03.04.010.14. (9-13-90).

Unattended Vessel: A watercraft that is left without any human on board or in the immediate vicinity and is currently not being used.

Vessel: Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but does not include float houses as defined in Section 67-7003 (7) Idaho Code, diver's aids operated and designed primarily to propel a diver below the surface of the water, and non-motorized devices not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses, single inner tubes and beach and water toys.

Wake: The visible track of turbulence created by watercraft moving through the water.

Watercraft: Those devices designed as a means of transportation on water. Watercraft does not include diver's aids operated and designed primarily to propel a diver below the surface of the water or non-motorized devices not designed or modified to be used as a means of transportation on the water, such as inflatable air mattresses, single inner tubes, beach and water toys or float houses as defined in Idaho Code Section 67-7003(7),.

Water-skiing: Any act that involves a person being towed by a motor powered vessel utilizing a tow rope, tow line, or training boom.

4.0 Operational Rules, Regulations and Standards:

4.1 Purpose: These rules, regulations and standards are in addition to and supplemental of those of other Valley County Ordinances, as amended, the Idaho State Boating Law and the Rules of the Idaho Administrative Procedures Act.

4.2 Applicability: These rules, regulations and standards apply to any user of the Big Payette Lake Watershed, except that they shall not apply to a law enforcement or emergency official operating in their official capacity during an enforcement or emergency action.

4.3 Basic Standard: It shall be unlawful and considered as negligent behavior for any person to operate any type of vessel or watercraft on the public waters of the Big Payette Lake Watershed in such a manner as to not pay proper attention to the actual and potential hazards then existing; to operate at a rate of speed greater than stated herein as permissible; or to operate in a manner that, given the exercise of reasonable care, will prevent being able to stop said watercraft within the assured clear distance ahead. Specifically prohibited and deemed negligent behavior is engaging any watercraft in wake jumping or having it become fully airborne; weaving at a speed greater than no wake through congested traffic; or using a watercraft to willfully harass another vessel, a swimmer, a diver or any wildlife.

4.4 Speed Limits: Specific speed limits for all the public waterways of Big Payette Lake Watershed are established, and are shown on the Big Payette Lake Watershed Watercraft Speed Map, a copy of which is attached hereto and made a part hereof. This map, or series of maps, may be supplemented and amended, after notice, by the Valley County Board of County Commissioners. Speed limits are as follows:

4.4.1 A No Wake Safe Water Zone shall exist within three hundred feet (300') of any Big Payette Lake shoreline. Provided, however, the following exceptions shall apply:

4.4.1.1 Unless otherwise provided by State law, no No Wake Safe Water Zone shall exist off the shoreline of islands in Big Payette Lake.

4.4.1.2 Unless otherwise provided by State law, no No Wake Safe Water Zone shall exist off the shoreline into the waters of The Narrows.

4.4.2 A No Wake Safe Water Zone shall exist within 100 feet of any anchored or moored vessel, swim float, marked swimming area, person in the water, person in a vessel engaged in fishing or any manually-propelled vessel.

4.4.3 A No Wake Safe Water Zone shall exist on all the waters of Upper Payette Lake, and on the North Fork of the Payette River above Big Payette Lake.

4.4.4 At night, where the speed is not otherwise subject to greater restriction, the speed limit shall be reasonable and prudent, but not in excess of twenty (20) miles per hour.

4.4.5 During the day, where the speed is not otherwise subject to greater restriction, the speed limit shall be reasonable and prudent, but not in excess of fifty (50) miles per hour. Provided, however, this subsection shall not apply to a seaplane on the water.

4.4.6 No motor driven watercraft shall be operated at a speed or in a manner that creates an excessive, dangerous or damaging wake.

4.5 Restricted Areas: The following areas restrict use on the Big Payette Lake Watershed. They are shown on the Big Payette Lake Watershed Watercraft Restricted Areas Map. This map, or series of maps, may be supplemented and amended, after notice, by resolution of the Valley County Board of County Commissioners. Those areas are as follows:

4.5.1 No Motor Driven Watercraft Area: The North Fork of the Payette River in that reach from Big Payette Lake to Upper Payette Lake shall be a no motor driven watercraft area, except that electric motor driven watercraft may be used.

4.5.2 Restricted Swimming Area: Reserved.

4.5.3 Restricted Water-skiing Area: Waterskiing is prohibited within any No Wake Safe Water Zone; provided, however, that, vessel and swimmer traffic permitting, skiers may start from the shore, dock or water but must proceed directly to the closest point outside the No Wake Safe Water Zone before altering course but shall not be returned under power to the shore, dock or water within such a No Wake Safe Water Zone.

4.5.4 Diver Protection Area: A diver shall deploy a recognized "diver down" warning flag or the international code flag A or Alpha at all times while diving. No vessel shall operate within one hundred feet of the display of any such diver down warning flag, except a vessel servicing a diver, and all vessels approaching such a flag shall do so at a reduced speed.

4.5.5 Personal Watercraft Operational Zone: Big Payette Lake shall be a no personal watercraft zone during the hours between sunset and sunrise.

4.6 Swimmers Using Waters Outside a No Wake Safe Water Zone: Any person swimming in an area that lies outside a No Wake Safe Water Zone shall be accompanied by a watercraft, or tow a visible float, that shall serve as a warning to other motorized vessels and water users that swimming is occurring.

4.7 Age Limitations for Operation of Watercraft:

4.7.1 It shall be unlawful to operate, or to allow someone to operate, a motor driven watercraft if the operator is a person under the age of twelve (12) years of age, except under direct adult supervision.

4.7.2 It shall be unlawful to operate, or to allow someone to operate, a motor driven watercraft powered by a motor rated at greater than fifteen (15) horsepower unless the operator is at least sixteen (16) years of age or under direct adult supervision.

4.8 Live Aboard:

It shall be illegal to use a vessel for live-aboard activities on Big Payette Lake unless that vessel is equipped with a holding tank for human waste. Furthermore, it shall be illegal to use any vessel for such live-aboard activities for longer than fifteen (15) days in any thirty (30) day period.

4.9 Unattended Vessel:

It shall be illegal to leave a vessel unattended for more than three (3) continuous days on Big Payette Lake while anchored to the bottom or moored to any structure not permitted by Idaho Department of State Lands. Moving the vessel or breaking the unattended time by being on board does not remedy the illegality if a reasonable person would determine that the vessel is not being used and is being left unattended for more than three (3) days.

4.10 House Boat Anchoring:

House boats, when overnighting, must tie up to a structure permitted for such use by the State of Idaho Department of Lands and must have written permission from the permittee. In no case shall an overnighting house boat anchor to the bottom.

4.11 Eluding Peace Officer; Failure to Yield:

4.11.1 It shall be unlawful for any person operating a vessel to willfully flee or attempt to elude a pursuing police vessel, when given a visual or audible signal to bring the motor driven watercraft to a stop. The signal given by a peace officer may be by emergency lights or siren and need not conform to the standards for decibel ratings or light visibility specified in Idaho Code 49-623(3). It is sufficient proof that a reasonable person knew or should have known that the visual or audible signal given by a peace officer was intended to bring the pursued vessel to a stop.

4.11.2 Upon the immediate approach of an authorized emergency or police vessel making use of any audible or visible signal, the driver of every other vessel or watercraft shall yield the right of way and stop, remaining in that position until the authorized emergency or police vessel has passed, except when otherwise directed by a peace officer. The driver of the vessel shall yield to the authorized emergency or police vessel by turning their vessel or watercraft in a manner that is parallel to the direction of the emergency or police vessel and stopping.

4.12 Violations of Section 4.0:

It shall be unlawful to operate a watercraft, personal watercraft, vessel or to swim, dive or water-ski or enter into any other activity in a manner contrary to the restrictions or prohibitions set forth in Sections 4.0 of this Ordinance and of any Valley County Board of County Commissioner rules enacted pursuant to these sections. A violation of any of these said provisions shall constitute an infraction, unless otherwise specified by the Idaho Code, and may subject violator to other penalties.

5.0 Dumping into Water Bodies:

In addition to the statutory and regulatory laws and rules set out under the Idaho Marine Sewage Disposal Act, it is forbidden to deposit any extraneous matter of any kind whatsoever into the waters of the Big Payette Lake Watershed. Violation of this section shall constitute a misdemeanor.

6.0 Impoundment:

6.1 The Valley County Sheriff's Office is hereby authorized to impound a vessel when the vessel has been left unattended, is abandoned, or when it is adrift or is presenting a hazard to safe boating in the Big Payette Lake Watershed. The Sheriff is further authorized to impound a vessel when the operator of the vessel has been arrested and the registered owner of the vessel is not immediately available to assume lawful possession and control of the vessel.

6.2 Whenever an authorized officer impounds a vessel or a trailer pursuant to the provisions of this chapter or pursuant to state law, the Sheriff's Office shall substantially comply with the provisions of Idaho Code Title 49, Chapter 18 that provide, among other procedures, that the registered owner of the property, if known, be given written notice of the impoundment and the opportunity for a post storage hearing.

7.0 Summary of Rules and Regulations:

A summary of the rules and regulations governing the use of the Big Payette Lake Watershed as enacted by this ordinance shall be made available at convenient locations.

8.0 Penalties:

Unless otherwise specifically provided in this Ordinance that an offense is a misdemeanor, all violations are infractions. Both misdemeanor offenses and infractions are punished as provided in Idaho Code Title 18, Chapter 1. Each instance of any violation of this chapter shall constitute a separate offense.

9.0 Severability:

If any section, clause, provision or portion of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected. For this purpose, the provisions of this Ordinance are declared severable.

Dated: February 11, 2008

GERALD WINKLE, CHAIRMAN

F.W. ELD, COMMISSIONER

**GORDON L. CRUICKSHANK,
COMMISSIONER**

ATTEST:

ARCHIE N. BANBURY, CLERK