

ORDINANCE # 20-11

AN ORDINANCE OF VALLEY COUNTY, IDAHO, CREATING AN ORDINANCE TO BE ADMINISTERED AND ENFORCED BY THE VALLEY COUNTY SHERIFF'S OFFICE AND TO BE KNOWN AS VALLEY COUNTY WATERWAYS ORDINANCE, WITH COVERAGE OF ALL PUBLIC WATERWAYS INCLUDING DEADWOOD RESERVOIR, GRANITE LAKE, HORSETHIEF RESERVOIR, LAKE CASCADE, LITTLE PAYETTE LAKE, PAYETTE LAKE, UPPER PAYETTE LAKE, WARM LAKE, AND SPECIFIC REACHES OF THE NORTH FORK OF PAYETTE RIVER. ESTABLISHING REGULATIONS FOR USE OF SAID WATERWAYS IN VALLEY COUNTY, IDAHO IN ORDER TO PROMOTE AND PROTECT THE HEALTH, SAFETY AND GENERAL WELFARE OF CITIZENS OF THE COUNTY. THIS VALLEY COUNTY WATERWAYS ORDINANCE REPEALS THE FOLLOWING ORDINANCES: ORDINANCE 78-1 (3-13-1978), ORDINANCE 02-3 (8-12-2002), ORDINANCE 03-3 (5-27-2003) AND ORDINANCE 08-1 (2-11-2008); AND ESTABLISHES AN EFFECTIVE DATE.

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, Idaho Department of Parks and Recreation, U. S. Forest Service, U. S. Bureau of Reclamation 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, Residents of Valley County desire to protect the area's natural environment including the special and high-quality fresh waters of the County's waterways, recognizing that such outstanding natural attributes contribute to tourism, to the overall economic well-being, and to the quality of life enjoyed and appreciated by both residents and visitors alike; and,

WHEREAS, Residents of Valley County value the peace and quiet associated with waterway experiences; and,

WHEREAS, improper operation of vessels can impose a danger to citizens who use the waters or live adjacent to Valley County lakes and waterways, and can diminish the quality of natural environment including the general peace and quiet of the waterways and their watersheds, diminish water quality, jeopardize shoreline stability and affect diverse wildlife habitat suitability in ways that will be mitigated by the terms of this ordinance; and,

WHEREAS, the Valley County Board of County Commissioners thus 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 to provide all users of the County's public waterways with clearly articulated, local regulations, enabling a more compatible recreational experience which 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 Board of County Commissioners of Valley County, Idaho that the following is enacted:

## **CHAPTER 5**

### **VALLEY COUNTY WATERWAYS ORDINANCE**

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#### **4-5-1: TITLE:**

This chapter shall be known and may be cited as the **VALLEY COUNTY WATERWAYS ORDINANCE**.

#### **4-5-2: PURPOSE AND COVERAGE:**

A. **PURPOSE:** The general purpose of the chapter is to promote and protect the health, safety and general welfare of the public, to enhance boating and other uses and to protect public and private property and the natural environment of the public waterways of Valley County. This Ordinance establishes rules 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 waterways experience for all users including abutting landowners;
2. To protect all County waterways against pollution from contaminants;
3. To protect the public and private property that abut County waterways from erosion;

4. To conserve and enhance the habitat afforded by the waterways for avian, terrestrial and aquatic wildlife;
5. To assure continuance of the County's high quality of life that is closely associated with its waterways and its watershed;
6. To preserve the high quality of life values that are associated with waterway use and especially the peace and quiet of the lake and river experiences;
7. To work with all waterway-front 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.

**B. COVERAGE AND APPLICABILITY:**

1. This Valley County Waterways Ordinance covers DEADWOOD RESERVOIR, GRANITE LAKE, HORSETHIEF RESERVOIR, LAKE CASCADE, LITTLE PAYETTE LAKE, PAYETTE LAKE, UPPER PAYETTE LAKE, WARM LAKE, AND SPECIFIC REACHES OF THE NORTH FORK OF PAYETTE RIVER. It establishes regulations for use of said waterways in Valley County, Idaho in order to promote and protect the health, safety and general welfare of citizens of the county.
2. This Ordinance repeals the following Valley County Ordinances: Ordinance 78-1 (3-13-1978), Ordinance 02-3 (8-12-2002), Ordinance 03-3 (5-27-2003) and Ordinance 08-1 (2-11-2008); and establishes an effective date.
3. In addition to the provisions herein, all waterways in Valley County are subject to the provisions of the Idaho state boating laws as found in The Idaho Safe Boating Act, Idaho Code Title 67, Chapter 70, other applicable Idaho State Statutes and The Idaho Administrative Code, IDAPA 26.01.30

**4-5-3: AUTHORITY:**

The provisions of this chapter are enacted pursuant to the general authority granted to the Board of County Commissioners by the Idaho Constitution, Article XII, Section 2, and Idaho Code, Sections 31-714, 31-807 and 67-7031.

**4-5-4: 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.

**DAY:** From one hour before sunrise to one hour after sunset.

**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; or 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 VESSEL:** 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 MOTOR DRIVEN VESSEL AREA:** A designated area where no motor of any type is allowed to power a watercraft.

**NO WAKE SPEED:** The slowest speed at which it is possible to maintain steering but not more than five (5) miles per hour.

**NO WAKE 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 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 Section 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~~ Line as established by the State of Idaho Department of Lands and as defined in IDAPA 20.03.04.010.14 (v. 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.

**VALLEY COUNTY BOARD OF COUNTY COMMISSIONERS:** The governing board of Valley County, Idaho.

**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 Idaho Code Section 67-7003, 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.

**WATERSKIING:** Any act that involves a person being towed by a motor-powered vessel utilizing a tow rope, tow line, or training boom, regardless of the type of device being towed.

**WATERWAYS ADVISORY COMMITTEE:** The Valley County Waterways Advisory Committee as appointed by the Valley County Board of Commissioners. (The Idaho Safe Boating Act, Idaho Code Section 67-7012)

**WATERWAYS WITH VESSEL RESTRICTED AREAS:** As provided for under Idaho Code Section 67-7031, areas in which certain uses are regulated on certain waters. Herein they include:

No motor driven vessel 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 nonmotorized 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, where personal watercraft may be regulated as to no wake zones, exclusive use, no use, or distance of use from shoreline; and a Diver protection area where activities in the vicinity of a diver are regulated.

#### **4-5-5: OPERATIONAL RULES, REGULATIONS AND BEHAVIORAL STANDARDS FOR ALL PUBLIC WATERWAYS IN VALLEY COUNTY:**

- A. **PURPOSE:** These rules, regulations and standards are in addition to and supplemental of those of other Valley County ordinances, as amended, the Idaho Safe Boating Act, other applicable State laws and the rules in the Idaho Administrative Code.
- B. **APPLICABILITY:** These operational rules, regulations and standards apply to any user of the public waterways of Valley County, except for law enforcement officials acting in their official capacity during an enforcement or emergency action:

1. **BASIC OPERATIONAL STANDARD:** It shall be unlawful and considered as negligent behavior for any person to operate any type of vessel on the public waters of Valley County 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 vessel within the assured clear distance ahead. Specifically prohibited and deemed negligent behavior is engaging any vessel in wake jumping or having it become fully airborne; weaving at a speed greater than no wake through congested traffic; or using a vessel to willfully harass another vessel, a swimmer, a diver or any wildlife.

#### **2. AGE FOR OPERATION OF A VESSEL OF CERTAIN TYPE OR HORSEPOWER:**

- a. It shall be unlawful to operate, or to allow someone to operate, a motor driven vessel of 15 horsepower or less if the operator is a person under the age of twelve (12) years, unless the operator is under direct adult supervision.
- b. It shall be unlawful to operate, or to allow someone to operate, a motor driven vessel of greater than fifteen (15) horsepower ~~or that is not~~ a personal watercraft unless:
- 1) The operator is at least sixteen (16) years of age; or
  - 2) The operator is at least ~~fourteen (14)~~ years of age and ~~either~~ under direct adult supervision ~~or have an Idaho Boater Education Card; or~~
  - 3) The operator is at least twelve (12) years of age and under direct adult supervision.

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~~c. It shall be unlawful to operate, or to allow someone to operate, a personal watercraft unless the operator is at least sixteen (16) years of age.~~

**3. LIVE ABOARD:**

- a. It shall be illegal to use a vessel for live aboard activities on Valley County waterways unless that vessel is equipped with a holding tank for human waste.
- b. 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. UNATTENDED VESSEL:** It shall be illegal to leave a vessel unattended for more than three (3) continuous days on any Valley County waterway while anchored to the bottom or moored to any structure not permitted by the State of Idaho Department of Lands or by another federal, state or local permitting authority. Moving the vessel or breaking the unattended time by being onboard 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.

**5. HOUSEBOAT ANCHORING:** Houseboats, when overnighing on any Valley County waterway, must tie up to a structure permitted for such use by the State of Idaho Department of Lands or by another federal, state or local permitting authority; and must have written permission from such authority to do so. In no case shall an overnighing houseboat anchor to the bottom.

**6. SWIMMERS USING WATERS OUTSIDE A NO WAKE AREA:** Any person swimming in an area that lies outside a no wake safe water zone shall be accompanied by a vessel, or tow a readily visible float or other type of warning device such that shall clearly serve as notice to all other motorized vessels and water users that swimming is occurring.

**7. NO WAKE SAFE WATER ZONE:** A No Wake Safe Water Zone shall exist within one hundred feet (100') 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.

**8. UNLAWFUL NOISE:**

- a. No person, while on the waters defined in this Ordinance, shall disturb the peace of others as defined in Idaho Code § 18-6409.
- b. Violation of this section shall be a misdemeanor.

**9. PERSONAL WATERCRAFT OPERATIONAL TIME ZONE:** All Valley County public waterways shall be a no personal watercraft zone during the hours between sunset and sunrise.

**10. 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 (100') 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 or safe speed.

#### 11. DUMPING IN WATERS OF VALLEY COUNTY:

- a. In addition to the statutory and regulatory laws and rules set out under the Idaho Marine Sewage Disposal Act, Title 67, Chapter 75, Idaho Code, it is unlawful to discharge, deposit, abandon, dump, spill, leak, pump, pour or emit any extraneous matter of any kind whatsoever into the public waters of Valley County, including but not limited to sewage, garbage, refuse, docks, wood and fuel.
- b. Violation of this section shall constitute a misdemeanor.

#### 12. SPEED REGULATION FOR ALL LAKES

- a. During the day, where the speed is not otherwise subject to a specific greater restriction, the speed limit shall be that which is reasonable and prudent given the circumstances at the time of day.
- b. At night, where the speed is not otherwise subject to a specific greater restriction, the speed limit shall be reasonable and prudent given the circumstances at the time. A suggested maximum speed of 20 mph is recommended during night time operation.
- c. No motor driven vessel shall be operated at a speed or in a manner that creates an excessive, dangerous or damaging wake.

#### **4-5-6: ADDITIONAL OPERATIONAL RULES, REGULATIONS AND BEHAVIORAL STANDARDS FOR CERTAIN PUBLIC WATERWAYS IN VALLEY COUNTY:**

In addition to the forgoing regulation that apply to all public waters in Valley County, the Board of Valley County Commissioners has determined, through citizen reports and recommendations of the Valley County Waterways Advisory Committee, that it is in the best interests of the citizens of the county and those who wish to use and enjoy the waterways of the county to institute certain restrictions on the use on certain public waters within the county.

The following regulations apply to all users of the specified waterbodies, with the exception of law enforcement officials acting in their official capacity:

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



1. LAKE CASCADE, BOULDER CREEK ARM, GOLD FORK ARM, LAKE FORK ARM, AND THE SHORELINE OF SUGARLOAF ISLAND unless otherwise provided by law a No Wake Safe Water Zone of 100 feet from docks, structures, and persons in the water.

2. LAKE CASCADE, WILLOW CREEK: No Wake Zone - It shall be unlawful for any person to operate, or allow to be operated, a vessel on the Willow Creek area leading into Southwest Idaho Senior Citizens Recreation Association Campground off the Boulder Creek Arm at any time in such a manner as to create a wake.

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B. NORTH FORK PAYETTE RIVER, NORTH OF LAKE CASCADE - No Motor Driven Vessel Area: It shall be unlawful for any person to operate, or allow to be operated, a motorized vessel at any time on the North Fork of Payette River from its confluence with Lake Cascade at Fisherman's Bridge, upstream to the dam at the south end of Payette Lake.

C. NORTH FORK PAYETTE RIVER, NORTH OF PAYETTE LAKE - No Motor Driven Vessel Area: It shall be unlawful for any person to operate, or allow to be operated, a motorized vessel at any time on the North Fork of Payette River from its confluence with Payette Lake at North Beach, upstream to Upper Payette Lake.

D. PAYETTE LAKE AND UPPER PAYETTE LAKE:

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

a. Unless otherwise provided by state law, a no wake safe water zone shall not exist off the shoreline of Channel Island, Cougar Island, and Shellworth Island in Payette Lake.

b. Unless otherwise provided by state law, a no wake safe water zone shall not exist off the shoreline in the waters of The Narrows.

2. ~~Other Restricted Areas: The Valley County Board of County Commissioners may also restrict certain waterway uses on the Payette Lake and Upper Payette Lake. The restrictions will be adopted adopt, by resolution, after notice, and may contain maps and/or a series of maps that may be supplemental to items already adopted within this ordinance and may be used as reference materials, ed and amended.~~

E. WARM LAKE - No Wake Zone During Certain Hours: It shall be unlawful for any person to operate, or allow to be operated, any vessel on Warm Lake on any day in such a manner as to create a wake between the hours of six o'clock (6:00) P.M. and eleven o'clock (11:00) A.M.

4-5-7: SUMMARY OF RULES AND REGULATIONS OR CHANGES:

D A summary of the rules and regulations governing the use of Valley County Waterways as enacted shall be made available at convenient locations.

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2) Any changes to this ordinance will be done through a properly noticed public hearing process.

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#### **4-5-8: POSTING OF RESTRICTED AREAS:**

For any restricted area, Valley County and the Valley County Sheriff's Office shall clearly post warning signs in the waterway or at public boat launch ramps, as appropriate, that provide ample notice to a person entering the restricted area. In areas where the waterway is over 60 feet deep, there shall be no duty to place signs in the water.

#### **4-5-9: ENFORCEMENT:**

This chapter shall be enforced by any officer of the Valley County Sheriff's Office.

#### **4-5-10: VIOLATIONS AND PENALTIES:**

- A. It shall be unlawful to operate a watercraft, personal watercraft, vessel or to swim, dive or waterski or enter into any other activity in a manner contrary to the restrictions or prohibitions set forth in this section, and to any Valley County Board of County Commissioner rules enacted pursuant to this section.
- B. Unless otherwise specified herein or by the Idaho Code, a violation of any of the provisions of this Ordinance shall constitute an infraction and subject the violator to a fine not to exceed three hundred dollars (\$300.00) (Idaho Code Section 18.111).
- ~~C. If the violation is deemed a misdemeanor herein or by the Idaho Code, a violation shall subject the violator to imprisonment in a county jail not exceeding six (6) months, or to a fine not exceeding one thousand dollars (\$1,000), or to both (Idaho Code Section 18.112).~~
- C. If a violator is charged and convicted of a specific infraction, as defined under this Ordinance, three times within a five year period, the fourth such charge shall be deemed a misdemeanor and subject to imprisonment in a county jail not exceeding six (6) months or a fine not exceeding one thousand dollars (\$1,000.00) or both (Idaho Code §18-111 *et seq.*)

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#### **4-5-11: EXCEPTIONS:**

The Valley County Board of County Commissioners retain the authority to issue special use permits in order to relax the requirements of this ordinance. The process to obtain such a permit is as follows:

- A. Submit a request in writing using a standardized application form available from either the Valley County Clerk or the Valley County Sheriff's Office.

- B. The request shall be submitted to the Valley County Clerk no later than twenty-one (21) days in advance of the anticipated use date and shall be scheduled on the next available Valley County Board of County Commissioner agenda.
- C. The Clerk shall place the request on the Valley County Board of County Commissioners' agenda as an action item. The request shall be included in the agenda packet compiled by the Valley County Clerk.
- D. Public comments can be made in writing and forwarded to the Valley County Clerk.

**NOW, THEREFORE, BE IT ORDAINED AND APPROVED** by the Valley County Board of Commissioners, Valley County, Idaho this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
ELTING HASBROUCK, Chairman

\_\_\_\_\_  
DAVE BINGAMAN, Commissioner

\_\_\_\_\_  
SHERRY MAUPIN, Commissioner

Attest:

\_\_\_\_\_  
Douglas A. Miller  
Valley County Clerk

Dated: \_\_\_\_\_

