

AN ORDINANCE REPEALING CITY OF MALAD, IDAHO, ORDINANCE NO. 26 REGULATING THE DISCHARGE OF A GUN; AND REGULATING THE DISCHARGE OF FIREARMS, AND ANY GUN FIRING A PROJECTILE BY COMPRESSED AIR, COMPRESSED GAS OR SPRING POWER WITHIN THE CITY LIMITS OF MALAD, IDAHO, AND PROVIDING FOR PENALTIES.

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

WHEREAS, the City Council of the City of Malad desires to protect the safety and security of the citizens of Malad without undue infringement on their liberty; and

WHEREAS, it is deemed by the City Council of the City of Malad, Idaho that it is dangerous to discharge firearms within the City Limits; and

WHEREAS, it is recognized that although dangerous, certain circumstances may justify the discharge of a firearm; and

WHEREAS, the City Council of the City of Malad desires to reduce the danger to residents posed by the discharge of firearms within the Malad City Limits.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MALAD, IDAHO:

SECTION 1: USE AND DISCHARGE OF FIREARMS.

Subject to the exceptions set forth in Section 3 of this Ordinance, it shall be unlawful for any person(s), firm, corporation or association to discharge, or cause to be discharged, any firearm at any place within the Malad City Limits.

“Firearm” means any device designed, made, or adapted to expel a projectile by using the

energy generated by an explosion or burning substance or any device readily convertible to that use.

SECTION 2: USE AND DISCHARGE OF COMPRESSED AIR, COMPRESSED GAS OR SPRING POWERED GUNS.

Subject to the exception set forth in Subsection (a) of this section, it shall be unlawful for any person, firm, corporation or association to discharge or cause to be discharged, any BB gun, Pellet gun, or Paint Ball gun operated by compressed air, compressed gas or spring power firearm at any place within the Malad City Limits.

a. This section shall not prohibit the firing of a BB gun, Pellet gun, or Paint Ball gun by an adult, or by a minor under the direct visual supervision of an adult, so long as such discharge occurs on private property owned or lawfully occupied by the supervising adult and as long as the discharge projectile does not exit the boundaries of such private property and the act and/or sound from such activity does not disturb the peace of surrounding property owners, or violate any other local, state or federal law.

SECTION 3: EXCEPTIONS.

Nothing herein shall be construed to apply to the use of firearms:

- 1) In exhibitions of charitable contests conducted under conditions and supervision approved by the City Council after application has been made to the City and permit has been issued; or
- 2) By duly qualified and commissioned Peace Officers in the performance of the official duties of their office; or

3) For the protection of a person or property in or about his home in accordance with the laws of the State of Idaho; or

4) For gun clubs and/or organizations that shoot within the city limits but in fixed localities, provided that said organizations provide to the City, in advance of any shooting, a set of fixed rules and/or by-laws of the organization, the name(s) of the person(s) responsible for the actions of the gun club, proof of liability insurance indemnifying Malad City for any accidents or incidents that may occur during their shooting event, a schedule of the time frame in which the event will occur and any other requirements that the Council shall demand; or

5) For hunting, provided the discharge of the firearm complies with all of the following conditions:

Shotguns only and

- a. Must be fired during legal hunting season by one properly licensed for hunting in the State of Idaho.
- b. Must be fired by an adult or a minor under the direct visual supervision of an adult.
- c. Must be fired from private property owned or legally occupied by the adult hunter or a supervisor of the hunting minor.
- d. The property on which the discharge occurs must be no less than ten (10) acres in size.
- e. The discharge shall not be closer than 150 feet from a public road, public right-of-way, or dwelling, and
- f. The bullet or projectile shall not exit the boundaries of the private property described in paragraph (d) above.
- g. Does not violate any other local, state or federal law.

SECTION 4: SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining portion of the Ordinance.

SECTION 5: PENALTIES.

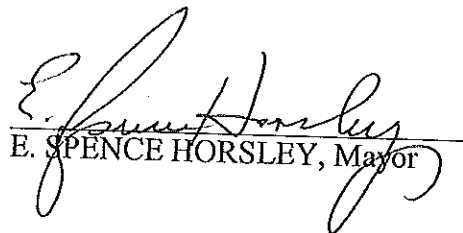
Any person or corporation or associating violating any of the provisions of this Ordinance or failing to observe of the provisions hereof, shall be deemed guilty of a Misdemeanor and upon conviction shall be subject to a fine of up to Three Hundred Dollars (\$300.00) and incarceration in a confined facility for up to one (1) year in jail, or both, and each violations shall be a separate offense.

SECTION 6: SUPERSESSION.


This Ordinance supercedes Malad City Ordinance No. 29 and any other subsequent ordinances passed by the Malad City Council pertaining to the use of firearms with the Malad City Limits.

SECTION 7: This Ordinance shall become effective and be in force from and after its passage, approval and publication as required by law.

Passed by the Council and approved by the Mayor of the City of Malad City, Oneida County, State of Idaho this 10 day of Sept., 2003.


E. SPENCE HORSLEY, Mayor

ATTEST:


SUSAN J. WITTMAN, City Clerk