



CITY OF PORTOLA

CITY COUNCIL REGULAR MEETING AGENDA

REGULAR MEETING
WEDNESDAY, OCTOBER 13, 2021
6:00 P.M.

CITY HALL COUNCIL CHAMBERS
35 THIRD AVENUE
PORTOLA, CA 96122

COUNCILMEMBERS ATTENDING VIA TELECONFERENCE AS PERMITTED BY CALIFORNIA GOVERNOR NEWSOM EXECUTIVE ORDER N-29-20

COUNCILMEMBERS

Mayor Bill Powers
Mayor Pro Tem Pat Morton
Councilmember Tom Cooley
Councilmember Phil Oels
Councilmember Stan Peiler

CITY STAFF

City Manager Lauren Knox
Public Works Director Todd Roberts
Finance Officer Susan Scarlett
City Attorney Steve Gross
Deputy City Clerk Tara Kindall

The City Council welcomes you to its meetings which are regularly held the second and fourth Wednesday of each month at 6:00 p.m. Your interest and participation is encouraged and welcome.

As permitted by Executive Order N-29-20, proclaiming a State of Emergency in the State of California, the City Council Chamber at City Hall will not be accessible to the public for the City of Portola's October 13, 2021 Regular City Council meeting.

The City Council meeting is accessible to the public via live streaming at: <https://zoom.us/j/3583067836> or by phone at: Phone Number 1.669.900.6833; Meeting ID: 358 306 7836.

Any person desiring to address the City Council on any item not on the agenda may do so during public comment. Public comments made during a regular Council meeting may be recorded. Public comment will be accepted via email or chat on any item on the agenda at any time beginning at 6:00 p.m. and ending at the close of public comment on the item. Please direct your comments to Tara Kindall, Deputy City Clerk, tkindall@cityofportola.com or access the chat function on the Zoom meeting platform during the live stream. Members of the public may submit their comments in writing to be included in the public record.

Any person with a disability may submit a request for reasonable modification or accommodation to the above-described means for accessing and offering comment at the meeting to Tara Kindall at tkindall@cityofportola.com who will swiftly resolve such request.

CONSENT CALENDAR: These items include routine financial and administrative actions. All items on the consent calendar will be voted on at the same time during the meeting under “Consent Calendar”. If you wish to have an item removed from the Consent Calendar, you may do so by addressing the presiding officer.

Copies of staff reports or other written documentation relating to each item of business referred to on this agenda are on file in the Office of the City Clerk and are available for public inspection. If you have any questions on any agenda items, contact the City at 530.832.6801.

Meeting facilities are accessible to persons with disabilities. Reasonable efforts will be made to accommodate participation of the disabled in the City’s public meetings. If special accommodation for the disabled is needed, please notify the City at 530.832.6801 at least 48 hours prior to the meeting.

For additional information visit the City of Portola Web Page: www.cityofportola.com.

**CITY COUNCIL AGENDA
REGULAR MEETING
OCTOBER 13, 2021
6:00 P.M.**

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENT**

This section is intended to provide members of the public with an opportunity to comment on any subject that does not appear on this agenda. Please note that California law prohibits the City Council from taking action on any matter which is not on the posted agenda, unless it is determined to be an urgency item by the City Council. Any member of the public wishing to address the City Council during “PUBLIC COMMENT” shall first secure permission of the presiding officer, stand; may give his/her name and address to the Clerk for the record. Each person addressing the City Council shall be limited to three minutes ordinarily, unless the presiding officer indicates a different amount will be allotted.

4. CITY COMMUNICATIONS

- A. City Council Communications/Committee Reports**
- B. Staff Communications/Fire Report/Sheriff’s Report/Air Quality Report**
- C. City Manager Report**

5. CONSENT CALENDAR

These items are expected to be routine and non-controversial. The City Council will act upon them at one time without discussion. Any Councilmembers, staff member or interested party may request that an item be removed from the consent agenda for discussion. Additional budget appropriations will require a four/fifths roll call vote.

- A. Claims** – Adopt Resolution No. 2485 authorizing payment of claims for the period of September 3, 2021 (payroll) through October 5, 2021 (payroll and accounts payable).
[pages 1-4]

Accounts Payable:	\$100,110.89
Payroll:	<u>\$ 87,885.97</u>
Total:	\$187,996.86

6. ORDER OF BUSINESS

A. COVID Remote Meeting Resolution.

Review and consider adoption of Resolution No. 2486. Discussion and possible action. [pages 3-8]

A Resolution of the City Council of the City of Portola proclaiming a local emergency persists, re-ratifying the proclamation of a state of emergency by the Governor of California Executive Order N-29-20, and re-authorizing remote teleconference meetings of the legislative bodies of the City of Portola for the period of October 13, 2021 to November 13, 2021 pursuant to Brown Act provisions.

B. Local Emergency Services Study Group Contract.

Approval of a contract, not to exceed \$30,000, with Planwest Partners on behalf of the Local Emergency Services Study Group for a feasibility study for fire reorganization in portions of eastern Plumas County. Discussion and possible action. (material related to this item will be provided prior to or at the meeting)

C. Disc Golf Update.

Review and consider certain items concerning the Disc Golf Course. Receive City Council approval of or direction on these items. Discussion and possible action. [pages 9-10]

D. Open Flame Burn Ban Ordinance.

Consideration Draft Ordinance No. 360, prohibiting open flame burning from wood and charcoal fires during fire restrictions. Discussion and possible action. [pages 11-21]

An Ordinance of the City of Portola, County of Plumas amending Chapter 15.10.026 of the City of Portola Municipal Code exceptions for prohibition of open burning.

7. ADJOURNMENT

RESOLUTION NO. 2485

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTOLA
AUTHORIZING PAYMENT OF CLAIMS FOR THE PERIOD
SEPTEMBER 4, 2021 (PAYROLL) THROUGH
OCTOBER 5, 2021 (PAYROLL AND ACCOUNTS PAYABLE)**

**ACCOUNTS PAYABLE
CHECK NUMBERS: 43274-43321
[CHECKS 43319 & 43320 VOIDED]**

**PAYROLL
CHECK NUMBERS: 16826-16880**

WHEREAS, the City Council of the City of Portola has been fully advised that all such claims and demands are legal obligations of the City; and,

WHEREAS, the City Council has fully considered the claims and money demands and payment thereof as set forth below and in "Exhibit A" attached hereto and incorporated herein.

ACCOUNTS PAYABLE:	\$100,110.89
PAYROLL:	<u>\$ 87,885.97</u>
TOTAL:	<u>\$187,996.86</u>

NOW THEREFORE BE IT RESOLVED THAT all claims and demands represented are just and proper and legal demands or claims against the City of Portola, and the payment of any such demands is approved and authorized.

PASSED, APPROVED AND ADOPTED this 13th day of October, 2021 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Bill Powers, Mayor

ATTEST:

Tara Kindall, Deputy City Clerk

I, Tara Kindall, Deputy City Clerk of the City of Portola, do hereby certify that the above and foregoing Resolution was duly passed and adopted by the City Council at the City of Portola Regular meeting thereof held on October 13, 2021.

Tara Kindall, Deputy City Clerk

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Check Register Report

9-27-21 SP AP (JOHN HOUCK)

Date: 09/27/2021

Time: 10:43 am

Page: 1

City Of Portola

BANK: PLUMAS BANK

Check Number	Check Date	Status	Void/Stop Date	Reconcile Date	Vendor Number	Vendor Name	Check Description	Amount
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PLUMAS BANK Checks

43274	09/27/21	Printed				JOHN HOUCK HOUCK DESIGN	SIGNS	6,000.00
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Total Checks: 1	Checks Total (excluding void checks):	6,000.00
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Total Payments: 1	Bank Total (excluding void checks):	6,000.00
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Total Payments: 1	Grand Total (excluding void checks):	6,000.00
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Check Register Report

Date: 10/06/2021

Time: 11:36 am

Page: 1

City Of Portola

BANK: PLUMAS BANK

Check Number	Check Date	Status	Void/Stop Date	Reconcile Date	Vendor Number	Vendor Name	Check Description	Amount
PLUMAS BANK Checks								
43275	10/06/21	Printed			CT	ALWAYS ANSWER	CALL CENTER & FAX/E-MAIL	46.50
43276	10/06/21	Printed			ACS	AMAZON CAPITOL SERVICES	SUPPLIES	906.21
43277	10/06/21	Printed			AMGAS	AMERIGAS	PROPANE	844.34
43278	10/06/21	Printed			1011	AT&T	SCADA/TELEPHONE	70.94
43279	10/06/21	Printed			ATTLT	AT&T	LONG DISTANCE	251.19
43280	10/06/21	Printed			BTFIN	BLUE TARP FINANCIAL, INC	EQUIPMENT SUPPLIES	22.86
43281	10/06/21	Printed			BITS	BULLET INFORMATION TECHNOLOGY	COMPUTER REPAIR/INSTALLATION	840.00
43282	10/06/21	Printed			CE	CASHMAN EQUIPMENT COMPANY	EQUIPMENT RENTAL	621.74
43284	10/06/21	Printed			COP	CITY OF PORTOLA	WATER/SEWER BILLS	8,101.61
43285	10/06/21	Printed			CTC	COATES TIRE CENTER	VEHICLE/EQUIPMENT REPAIR	302.31
43286	10/06/21	Printed			COMSITE	COMSITES WEST	BECKWOURTH MONTHLY RENT	185.00
43287	10/06/21	Printed			CSG	CSG CONSULTANTS	SERVICES	8,320.00
43288	10/06/21	Printed			UB	CUSTOMER REFUND	341 UTAH ST. PORTOLA CA 96122	369.36
43289	10/06/21	Printed			CARQUEST	DOBROS PARTS-LLC	VEHICLE REPAIR	365.16
43290	10/06/21	Printed			HFT	HARBOR FREIGHT TOOLS	MATERIALS AND SUPPLIES	254.36
43291	10/06/21	Printed			HD	HOME DEPOT	SUPPLIES	3,073.90
43292	10/06/21	Printed			HUSI	HUNT & SONS, INC.	FUEL (AUGUST 2021)	3,302.75
43293	10/06/21	Printed			IEDA	IEDA	LABOR RELATIONS CONSULTING	237.00
43294	10/06/21	Printed			IMD	INTERMOUNTAIN DISPOSAL	REFUSE COLLECTION	627.13
43295	10/06/21	Printed			KANLIF	KANSAS LIFE INSURANCE CO	LIFE INSURANCE	150.40
43296	10/06/21	Printed			LIBENER	LIBERTY UTILITIES	UTILITY BILLS	6,755.51
43297	10/06/21	Printed			MANH	MANHARD CONSULTING	PROFESSIONAL SERVICES	2,040.00
43298	10/06/21	Printed			NAPA	NAPA SIERRA	VEHICLE/EQUIPMENT REPAIR	219.49
43299	10/06/21	Printed			NSDS	NEIGHBORHOOD SEWER & DRAIN SVC	SERVICE	200.00
43300	10/06/21	Printed			OE	OPERATING ENGINEERS	HEALTH INSURANCE	10,944.00
43302	10/06/21	Printed			PST	PLUMAS SIERRA TELECOMMUNICAT	INTERNET SERVICE	382.00
43303	10/06/21	Printed			RCP RIVER	RCP RIVER CITY PLUMBING	PROFESSIONAL SERVICES	2,200.00
43304	10/06/21	Printed			SSALI	SILVER STATE ANALYTICAL	WATER/WASTEWATER TEST	951.00
43305	10/06/21	Printed			SUCCEED	SUCCEED.NET	WEB HOSTING	67.85
43306	10/06/21	Printed			TYLERTECH	TYLER TECHNOLOGIES, INC	SB2	15,475.00
43307	10/06/21	Printed			USPO	UNITED STATES POSTAL SERVICE	POSTAGE	1,500.00
43309	10/06/21	Printed			USBCPS	US BANK CORPORATE PYMT SYSTEMS	MATERIALS/SUPPLIES	2,122.37
43310	10/06/21	Printed			USDA	US DEPARTMENT OF AGRICULTURE	INTEREST PAYMENT ON LOAN 91-04	18,570.70
43311	10/06/21	Printed			USABB	USA BLUE BOOK	SUPPLIES	162.91
43312	10/06/21	Printed			VW	VERIZON WIRELESS	CELL PHONES	352.29
43313	10/06/21	Printed			VW	VERIZON WIRELESS	LANDLINES	491.25
43314	10/06/21	Printed			VW	VERIZON WIRELESS	LDTWP DATA PLAN	108.05
43315	10/06/21	Printed			WNS	WESTERN NEVADA SUPPLY	LINE REPAIR	1,587.94
43316	10/06/21	Printed			WIN911	WIN-911 SOFTWARE	ANNUAL RENEWAL	660.00
43317	10/06/21	Printed			XC	XEROX FINANCIAL SERVICES	LEASE 2 MONTHS	268.13
43318	10/06/21	Printed			RENOS	RENO SALVAGE CO.	SNOW SUPPLIES	159.64
43321	10/06/21	Printed			PCC	PLUMAS COUNTY CLERK	PLANNING AND DEVELOPMENT	50.00

Total Checks: 42 **Checks Total (excluding void checks): 94,160.89**

Total Payments: 42 **Bank Total (excluding void checks): 94,160.89**

Total Payments: 42 **Grand Total (excluding void checks): 94,160.89**

CITY COUNCIL AGENDA STAFF REPORT

DATE: October 8, 2021

TO: Honorable Mayor and Members of the City Council

FROM: Tara Kindall, Deputy City Clerk

MEETING: October 13, 2021

SUBJECT: Resolution No. 2486, re-ratifying the proclamation of a state of emergency and re-authoring remote teleconference meeting of the legislative bodies of the City of Portola.

At the September 22, 2021, City Attorney Steve Gross updated council concerning Assembly Bill 361, signed by Governor Gavin Newsom on September 16, 2021, which extends the Brown Act modifications that have been in effect since March of 2020. This bill allows the following:

- While maintain transparency and public access, local agencies would be able to meet remotely during a declared state of emergency
- While agencies would still be required to post agendas and meeting information, agencies would not be required to post meeting notices and/or agendas at all teleconference locations when remotely meeting during an emergency
- While the public must continue to have access to the remote meeting and provided the ability to make public comment, agencies would not be required to make all remote meeting sites accessible to the public, nor include the remote location details in the meeting notice or agenda during a declared state of emergency
- Additionally, agency board members would not be required to be a remote sites within the territorial bounds of the agency during a declared state of emergency.

Recommendation:

Adopt Resolution No. 2486: A Resolution of the City Council of the City of Portola proclaiming a local emergency persists, re-ratifying the proclamation of a state of emergency by Governor of California Executive Order N-29-20, and re-authorize remote teleconference meetings of the legislative bodies of the City of Portola for the period of October 13, 2021 to November 13, 2021 pursuant to Brown Act provisions.

Attachments:

Attachment 1: Resolution No. 2486

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RESOLUTION NO. 2486

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTOLA PROCLAIMING A LOCAL EMERGENCY PERSISTS, RE-RATIFYING THE PROCLAMATION OF A STATE OF EMERGENCY BY GOVERNOR OF CALIFORNIA EXECUTIVE ORDER N-29-20, AND RE-AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF PORTOLA FOR THE PERIOD OF OCTOBER 13, 2021 TO NOVEMBER 13, 2021 PURSUANT TO BROWN ACT PROVISIONS.

WHEREAS, the City of Portola is committed to preserving and nurturing public access and participation in meetings of the City Council; and

WHEREAS, all meetings of the City of Portola’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and watch the City’s legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provision for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the City’s boundaries, caused by natural, technological or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, the City Council of the City of Portola previously proclaimed by Official Proclamation on March 19, 2020, finding that the requisite conditions exist for the legislative bodies of the City of Portola to conduct remote teleconference meetings without compliance with paragraph (3) of subdivision (b) of section 54953; and

WHEREAS, as a condition of extending the use of the provisions found in section 54953(e), the City Council must reconsider the circumstances of the state of emergency that exists in the City of Portola, and the City Council has done so; and

WHEREAS, emergency conditions persist in the City of Portola specifically, a novel coronavirus, COVID-19, which symptoms include fever, cough, and shortness of breath with outcomes ranging from mild to severe illness, and in some cases death; and

WHEREAS, Plumas County, where the residents of the City of Portola reside, reports that many cases of COVID-19 and its variants continue to be contracted regularly within the county; and

WHEREAS, the City of Portola does hereby find that the Existence of a Local Emergency due to the COVID-19 Pandemic has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City of Portola and desires to affirm a local emergency exists and re-ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency persisting, the City Council does hereby find that the legislative bodies of the City of Portola shall continue to conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall continue to

comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, the City Council of the City of Portola has been conducting meeting via live streaming at: <https://zoom.us/j/3583067836> or by phone at: 1.669.900.6833, meeting ID 358 306 7836 so that the public may participate in the City Council meetings;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTOLA DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Affirmation that Local Emergency Persists. The City Council hereby considers the conditions of the state of emergency in the City of Portola and proclaims that a local emergency persists throughout the City, and the novel coronavirus, COVID-19, continues to persist within the City as well as throughout Plumas County at a rate that poses significant risk to the health of all citizens.

Section 3. Re-ratification of Governor's Proclamation of a State of Emergency. The City Council hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 19, 2020 .

Section 4. Remote Teleconference Meetings. The City Manager and legislative bodies of the City of Portola are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, continuing to conduct open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective until the earlier of (i) November 13, 2021, or such time the City Council adopts a subsequent resolution in accordance with Government Code section 54953(3) to extend the time during which the legislative bodies of the City of Portola may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the City Council of the City of Portola , this 13th day of October 2021, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Bill Powers, Mayor

ATTEST:

Tara Kindall, Deputy City Clerk

I, Tara Kindall, Deputy City Clerk of the City of Portola, do hereby certify that the above and foregoing Resolution was duly passed and adopted by the City Council at the City of Portola Regular meeting thereof held on October 13, 2021.

Tara Kindall, Deputy City Clerk

CITY COUNCIL AGENDA STAFF REPORT

DATE: October 7, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Lauren Knox, City Manager
MEETING: October 13, 2021
SUBJECT: Disc Golf Update

Background

At the September 15, 2021, special meeting, City Council heard an update regarding the Disc Golf course at the Riverwalk. At the meeting, staff mentioned a few items that would be coming back to the Council for discussion, as the course development progresses. There are a few items that staff would like approval of or direction on during the meeting.

Course Opening

With Council approval, the course is set to have a “Soft Grand Opening” on October 23rd. At this point, the idea is that the course will be open to the public with everything needed for play in place, but with the understanding that there is still some “polishing” that is needed, as well as finalization of some of the signage.

Recommendation: Approve of the course opening on October 23, 2021.

Tournament

The Portola Disc Golf Club would like to hold a tournament on that day starting at 8:30 am, if Council is amenable to the allowance. Though the course will be open to the public to play for free, it should be noted that the Portola Disc Golf Club would like to charge a fee to those who wish to join the tournament. At this time, the event is anticipated to have less than 60 people present, and the Disc Golf Club is looking into acquiring event insurance for the event. A small “ribbon cutting” type of ceremony will take place directly before the tournament, if Council members would like to join.

Recommendation: Approve of the use of the course for a tournament held by the Portola Disc Golf Club.

Name and Logo

Many are already dubbing the course as the “Portola Riverwalk Disc Golf Course.” As the course is on City property, Council should discuss and approve of a name for the course. Additionally, a community member has also developed a logo for the course (pictured to the right). Staff has been in contact with Mr. Rhode to determine whether or not the artist will allow the City to own the logo and name. An update of this will be provide to Council at the meeting.



Though the logo has already been in use, Council should approve of the logo if allowed by the original artist, as well as approve of its use in marketing and other items related to the course. Also, due to the linked relationship with the Portola Disc Golf Club, Council should discuss whether or not it would like to give permission to the club to use the logo if the logo is approved. *Recommendation: Approve of the name and logo as described (if allowed by the original artist).*

Donations

Many community members have graciously donated time, resources, and money to the disc golf course. Another item that staff would like direction on is whether or not money received above what Mr. Rhode has stated would be the City's "reserve" fund for future expenses or maintenance, can be used for bettering the course if short term needs arise. For reference, Mr. Rhode stated that the goal was to have \$7,500 in reserves for the City. Council should discuss if it is comfortable with reserving \$7,500 for future expenditures, and if money is sent to the City above that amount, Council should discuss whether it can be spent on incoming expenses that might be incurred for the course in the near future, for example for additional wood for signs, or a tool that might make course development easier. Council will be provided an up-to-date accounting for donations received to the City at the Council meeting.

It should also be noted that, initially, Mr. Rhode developed a sponsorship program, modeled off of other similar activities, and very quickly was able to acquire sponsors, which helped tremendously in determining how much of the course development could occur and at what level. Initially, the sponsorships were written to the City, however, as the Portola Disc Golf Club started to formalize a bit more, the club became the beneficiary of the sponsorships as well in order to help fund some of the current needs that couldn't be met by the City, as we have agreed to not exceed \$15,000 on the course. The club, in turn, utilizes and plans to utilize money received to develop the course as best as possible. For example, the club paid for the cement and cement installation materials, after cement use was approved by the Council. The request to use additional funds gathered over the \$7,500 will help to ensure that donated money is used now in course development, as well as reserved for future costs associated with the disc golf course.

Recommendation: Approve of a set aside reserve of \$7,500 to be used for the course in the future, including a potential redesign, maintenance, and anything else that may arise relating to the course, and approve of staff spending funds donated above that amount for any current needs if any arise.

Future policy development

There are a variety of items that still need to be addressed in a more formalized matter, including use of the course, including a discussion about entities who may want to use the course to hold tournaments, a donation policy, including discussion of the sponsorship program and a donation spending policy by the City, an outline of the special relationship between the City and the Portola Disc Golf Club, as well as other items that may arise relating to the course. Staff would like direction to begin developing these policies to bring back to Council at a later time.

Recommendation: Provide direction to staff to develop more formal policies relating to the disc golf course.

CITY COUNCIL AGENDA STAFF REPORT

DATE: October 7, 2021
TO: Honorable Mayor and Members of the City Council
FROM: Lauren Knox, City Manager
MEETING: October 13, 2021
SUBJECT: Open Flame Burning - Ordinance 360

At the September 22, 2021, Council meeting, City Council introduced and waived the second reading of draft Ordinance 360. Ordinance 360 (attachment 1) aims to amend Section 15.10.026 of the Portola Municipal Code (PMC) by restricting certain open flame fires, during times when a burn restriction is in place.

Recommendation:

Adopt Ordinance No. 360, prohibiting open flame burning from wood and charcoal fires during fire restrictions.

Attachments:

Attachment 1: Draft Ordinance 360

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Attachment 1

ORDINANCE NO. 360

AN ORDINANCE OF THE CITY OF PORTOLA, COUNTY OF PLUMAS
AMENDING CHAPTER 15.10.026 OF THE CITY OF PORTOLA MUNICIPAL CODE
EXCEPTIONS FOR PROHIBITION OF OPEN BURNING

The Council of the City of Portola, California, does ordain as follows:

Section 1. Chapter 15.10 of the Portola Municipal Code is hereby amended to read as follows:

Title 15- BUILDINGS AND CONSTRUCTION

Chapter 15.10- WOOD STOVE AND FIREPLACE ORDINANCE AND THE PROHIBITION OF
THE OPEN BURNING OF YARD WASTE

Sections:

- 15.10.010 Purpose.**
- 15.10.020 Definitions.**
- 15.10.025 Prohibition of the Open Burning of Yard Waste.**
- 15.10.026 Exceptions for Prohibition of Open Burning**
- 15.10.030 Requirements for New Wood Burning Devices.**
- 15.10.040 Requirements for Existing Wood Burning Devices.**
- 15.10.050 Permitted Fuels in Wood Burning Devices, Wood Burning Fireplaces, Wood-Fired Cookstoves, Wood-Fired Fire Pits.**
- 15.10.060 Mandatory Curtailment of Wood Burning Heaters, Wood Burning Fireplaces, Wood-Fired Fire Pits and Wood-Fired Cookstoves During Stagnant Conditions.**
- 15.10.070 Outdoor Wood-Fired Boiler Installation Prohibited.**
- 15.10.080 Wood Stove Retailers/Contractors Required to Provide Educational Materials.**
- 15.10.090 Violations.**
- 15.10.100 Continuing Violations- Each day being a separate violation.**

15.10.010 Purpose.

- A. This chapter shall be cited as the “Wood Burning Device and Open Burning Ordinance”
- B. This chapter is enacted for the purpose of improving the air quality within the City limits and protecting the general welfare of the citizens and residents of Portola. The EPA officially designated the Greater Portola area as federal nonattainment for the federal annual standard for PM 2.5 (Particulate Matter with an aerodynamic diameter of 2.5 microns or less), on April 15, 2015. High PM2.5 levels are mostly due to impacts from residential wood burning. The City Council finds there is a need to regulate and reduce harmful emissions of exhaust gases from wood-burning heaters and fireplaces, and that an appropriate method of regulation is a wood burning device ordinance.

15.10.020 Definitions.

As used in this chapter:

- 1. “Air District” means the Northern Sierra Air Quality Management District.

2. "Building" means any residence, mobile home, commercial property or other structure.
3. "Certificate of Compliance" means a document issued by the Control Officer certifying that a building has no more than two wood burning heaters which are EPA-certified and no uncertified wood burning heaters.
4. "City" means the City of Portola.
5. "Control officer" means the official designated by the City Manager.
6. "Debris" means wastes resulting from land clearing operations. Debris include but are not limited to stumps, wood, brush, leaves, soil and road spoils.
7. "EPA" shall mean the United States Environmental Protection Agency.
8. "EPA - Certified" means any wood burning heater with a Phase II certification or a more stringent certification as currently enforced in the NSPS.
9. "EPA-Qualified Fireplace" means any fireplace model or retrofit device that has been qualified by EPA under EPA's Voluntary Fireplace Program as emitting no more than 5.1. g/kg.
10. "Fireplace" means any permanently installed indoor or outdoor masonry or factory-built device used for aesthetic or space-heating purposed and designed to operate with an air to fuel ratio greater than or equal to 35 to 1.
11. "New Construction" means any single or multi-family housing unit, for which construction began on or after the effective date of this ordinance. Construction is deemed to occur when the foundation for the structure is installed.
12. "Notice of Exemption" means a document issued by the Control Officer certifying that a building has no wood burning heaters.
13. "NSPS" means New Source Performance Standard. For purposes of this rule the NSPS is the Code of Federal Regulations, Title 40, Part 60, Subpart AAA.
14. "Open Burning" The burning of combustible material of any types outdoors in the open, not in any enclosure, where the products of combustion are not directed through the flue.
15. "Outdoor Wood-fired Boiler" or "Hydronic Heater" means a fuel burning device designed: (1) to burn primarily wood or wood pellet fuel; (2) not to be located inside structures ordinarily occupied by humans; and (3) to heat spaces or water by the distribution through pipes of a fluid, typically water or water and antifreeze mixture, heated in the device.
16. "Pellet Fueled Wood Heater" means a pellet-fueled heater, comprising a forced draft heater with an automatic feed which supplies appropriately sized feed material or compressed pellets of wood, corn, or other biomass material to the firebox.
17. "Permanently Inoperable" means modified in such a way that the wood burning heater can no longer function as a wood burning heater or easily be remodified to function as a wood burning heater. Conversion to other fuels, such as propane, is permitted.
18. "Recreational Fire" means an outdoor fire burning dry, seasoned wood, manufactured logs, or charcoal briquettes where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of 3 feet (914mm) or less in diameter and 2 feet (610 mm) or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes. These fires must be at least 25 feet from any structure or other combustible fuel source. Burning of yard waste (branches, shrubbery, or wet wood) is not allowed .
19. "Wood Burning Device" means any wood burning heater or fireplace. Wood burning devices do not include wood-fired residential or commercial barbecue devices, wood-fired fire pits, or wood-fired cookstoves.
20. "Uncertified Wood Burning Device" means any wood burning device that does not meet the performance and emissions standards of a Phase II certification or a more stringent

certification as currently enforced in the NSPS. Uncertified wood burning devices do not include wood-fired residential or commercial barbecue devices, wood-fired fire pits, or wood-fired cookstoves.

21. "Wood-Fired Cookstove" means a wood-fired appliance that is designed primarily for cooking food and that has the following characteristics:
 - a. An oven, with a volume of 0.028 cubic meters (1 cubic foot) or greater,
 - b. A device for measuring temperatures,
 - c. A flame path that is routed around the oven,
 - d. A shaker grate,
 - e. An ash pan,
 - f. An ash clean-out door below the oven, and
 - g. The absence of a fan or heat channels to dissipate heat from the appliance.
22. "Wood Burning Heater" means an enclosed wood-burning device capable of and intended for space heating such as a wood stove, pellet-fueled wood heater, or wood-burning fireplace insert.
23. "Yard waste" means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.

15.10.025 Prohibition of the Open Burning of Yard Waste.

A. All open burning of yard waste and debris, except as otherwise authorized in Section 15.10.026 shall be banned within the city limits of the City of Portola.

15.10.026 Exceptions for Prohibition of Open Burning

- A. Nothing in this rule shall be construed as prohibiting open outdoor fires used only for cooking food for human consumption, for recreational fires, or for ceremonial fires, except for when the California Department of Forestry and Fire Protection (CalFire) or the United States Forest Service (USFS) has issued a fire restriction or has suspended burning on lands adjacent to the City boundary, or when the Fire Chief issues a fire restriction for land within the City boundary. Open flame from wood burning or charcoal burning fires for food, ceremonial, or recreation use is not allowed when a restriction is in place.
- B. Training Burns: Fire Department training burns may be permitted with the prior written approval of the Fire Chief and the Northern Sierra Air Quality Management District.
- C. Special Permits: The Fire Chief and the Northern Sierra Air Quality Management District may issue special burn permits to authorize the burning of combustibles for the health and safety of the public.

15.10.030 Requirements for New Wood Burning Devices.

- A. Installation of Wood Burning Devices.
 1. Wood Burning Heaters: No person shall advertise, sell, offer for sale, supply, transfer or install in any residence or other structure any wood burning heater within the City limits unless it is an EPA certified wood burning heater at the time of sale or transfer.
 - a. No local government authority within the City limits may issue a building permit to any person to install an uncertified wood burning heater; and
 - b. Certified devices shall have a label permanently affixed to them from the United States Environmental Protection Agency (USEPA) which states that the stove is certified to comply with the NSPS standards.

2. Wood Burning Fireplaces: No local government authority within the City limits may issue a building permit to any person to install a wood burning fireplace unless it is an EPA-qualified fireplace or EPA-certified fireplace.
- B. Limitation on Number of Wood Burning Devices in New Construction and Remodels.
1. The number of EPA certified wood burning heaters installed on any residential or non-residential property for which a building permit is required shall not exceed one per individual dwelling unit; and
 2. The number of EPA-qualified fireplaces installed on any residential or non-residential property for a which a building permit is required shall not exceed one per individual dwelling unit; and
 3. No local government authority within the City limits may issue a building permit to any person to install a wood burning device in new construction or remodel, unless it is an EPA-qualified fireplace or EPA certified fireplace or wood heater certified to the level of the current NSPS; and
 4. Wood burning devices shall not be considered the sole source of heat in any new construction within the City limits; and
 5. The above limitations do not apply to devices that are defined as low emitting:
 - a. EPA-certified pellet fueled wood heater;
 - b. Devices that are exclusively gaseous- or liquid-fueled; and
 - c. EPA-certified wood burning devices that meet a certified emission rate of 1 gram/hour or less of particulate matter.

15.10.040 Requirements for Existing Wood Burning Devices.

- A. Existing Wood Burning Heaters and Change of Ownership.
1. In order to complete any escrow transaction, on any residential or commercial property, the current property within the City limits owner must obtain either a 1) Certificate of Compliance or a 2) Notice of Exemption.
 2. It is prohibited for any person to complete, or allow the completion of any Escrow transaction upon any residence or mobile home, or other parcel containing a building within the City limits unless each building on the parcel has been issued a Certificate of Compliance by the Control Officer as having no more than two wood burning heaters which are EPA-Certified and no uncertified wood burning heaters.
 3. A Certificates of Compliance or Notice of Exemption shall be issued by the Control Officer only upon physical inspection or documentary evidence that reliably establishes compliance with this section.
 4. A Certificate of Compliance shall identify all of the following:
 - a. Owner's name.
 - b. Model number and manufacturer for each wood burning heater in the building.
 - c. The street address, Assessor's parcel number, or legal description of the parcel of real property where the building is located.
 - d. The location of the building and the specific location in the building where the wood burning heater is located.
 5. A Notice of Exemption shall identify all of the following:
 - a. Owner's name.
 - b. The street address, Assessor's Parcel number, or legal description of the parcel of real property where the building is located.

- c. The location of the building and whether a space heat source is exclusively utilized, and if so, what heat source is exclusively utilized.
6. The buyer and seller of any real property within the City limits shall observe this section and any disclosure statements supplied by the real estate agents relating to the requirement under this regulation for the inspection of any wood burning heater installed in a building on the property.
7. If the disclosure report indicates that a wood burning heater on the property within the City limits is uncertified, the wood burning heater must be removed from the property and destroyed/recycled at an approved facility or agency. Re-inspection and a copy of documentation from the destroying/recycling facility or agency is required by the Control Officer prior to issuance of a Certificate of Compliance.
8. The Control Officer may issue a Certificate of Compliance for a residence within the City limits without conducting a physical inspection if a person provides evidence that the EPA-certified wood burning heater has been installed in compliance with all applicable building, fire and other codes. This documentation shall include a receipt or invoice from the installation or purchase that includes the manufacturer and model name of the wood burning device.
9. A Certificate of Compliance issued pursuant to this section:
 - a. Remains valid until the residential or commercial property is transferred or conveyed to a new owner or for nine months, whichever comes sooner.
 - b. Does not constitute a warranty or guarantee by the Control Officer that the wood burning heater within the residence or commercial property meets any other standards of operation, efficiency or safety, except the certification standards contained in these regulations.
10. If a residential or commercial property within the City limits is to be sold and does not contain any wood burning heaters, a form approved by the Control Officer, containing the signatures of both the buyer and seller, attesting to that fact, may be accepted in lieu of an inspection, and the Control Officer may issue a Notice of Exemption. The completed form shall be submitted to the Control Officer within ten days of close of escrow. If the residential or commercial property contains an uncertified wood burning heater which must be removed, the form must not be executed by either the buyer or seller until the removal has been completed. On any subsequent sale, a new Notice of Exemption is required.
11. Upon a change of ownership, no more than two EPA Certified wood burning heaters per building may remain in any property within the City limits, except for the low emitting devices outlined in 15.10.030(B)(5).
12. Upon a change of ownership, no uncertified wood-burning heater may remain in any property within the City limits.
13. The Control Officer may conduct audits after properties have closed escrow and have been recorded under the new owner's name in order to determine compliance with this ordinance. If the Control Officer finds that there is an uncertified wood burning heater in the building, the Control Officer shall require that the uncertified wood burning heater be destroyed/recycled at an approved scrappage/recycling facility or agency within 30 days of notifying the current property owner. A financial penalty may be assessed if noncompliance has been identified or if the current property owner fails to destroy/recycle the heater within the time prescribed in the notice.

- B. Existing individual dwelling units with two or more existing EPA Certified Wood Burning Heaters.

Existing individual dwelling units with two or more existing EPA Certified Wood Burning Heaters may not install additional Wood Burning Heaters (certified or uncertified). The above limitation does not apply to heaters that are defined as low emitting, including without limitation the following:

- 1. EPA certified pellet fueled wood heaters;
- 2. Devices that are exclusively gaseous- or liquid fueled; and
- 3. EPA certified wood burning heaters that meet a certified emission rate of 1 gram/hour or less of particulate matter.

15.10.050 Permitted Fuels in Wood Burning Devices, Wood Burning Fireplaces, Wood-Fired Cookstoves, Wood-Fired Fire Pits.

Burning of any fuels or materials in a Wood Burning Device other than the following fuels within City limits shall be in violation of this ordinance:

- A. Seasoned wood (less than 20% moisture content).
- B. Uncolored paper.
- C. Manufactured logs, pellets, and similar manufactured products (i.e., processed fire starters).

15.10.060 Mandatory Curtailment of Wood Burning Heaters, Wood Burning Fireplaces, Wood-Fired Fire Pits and Wood-Fired Cookstoves During Stagnant Conditions.

- A. Episodic Wood Burning Curtailment Requirements.
 - 1. Effective January 1, 2021, the requirements of this section shall be in effect during the months of January, February, November, and December. The Air District shall determine when a mandatory curtailment of solid fuel combustion in the City is necessary, notify the community that mandatory curtailment is required, and make such other determinations as are necessary to carry out the objectives of this chapter.
 - 2. No person shall operate a wood burning heater, wood burning fireplace, wood-fired fire pit or wood-fired cookstove within the City limits when a mandatory curtailment is in effect unless the device is an approved and currently registered EPA-Certified Wood Burning Heater.
 - 3. The approved and currently registered EPA-Certified Wood Burning Heater will be maintained and operated according to manufacturer instructions.
 - 4. The Air District will declare a mandatory curtailment whenever it determines that the 24-hour average PM2.5 concentration may exceed 30 ug/m3 AND when adverse meteorological conditions are expected to persist.
 - 5. The criteria for issuing a mandatory curtailment is as follows:
 - a. The Air District will analyze the available air monitoring data and determine whether a trend is continuing; and
 - b. The Air District will contact the National Weather Service located in either Reno or Sacramento to request a specific meteorological forecast specific for the Portola area; and
 - c. If the National Weather Service forecasts adverse meteorological conditions to persist and the Air District ascertains that there is a marked trend of continuing high concentrations of PM2.5 possible, then the Air District will declare a mandatory curtailment.

6. Upon determination that mandatory curtailment is required, the Air District shall notify the public through one or more of the following methods:
 - a. A recorded telephone message.
 - b. Messages posted on the Air District website.
 - c. Electronic mail messages to persons or entities that have requested such notice.
 - d. Notifying broadcast, print or social media operating within the boundaries of the City of Portola.
 - e. Any additional method that the Air District determines is appropriate.

Registration of EPA-Certified Devices.

1. Eligibility Requirements – Any EPA-Certified Wood Burning Heater is eligible to be registered with the Air District.
 2. Registration Process – Effective July 1, 2020, persons applying to register a Wood Burning Heater shall submit a completed application and supplemental documentation demonstrating compliance with the eligibility requirements to the District. Supplemental documentation shall include the following:
 - a. Receipt or invoice from the installation or purchase that includes the manufacturer and model name of the Wood Burning Heater, or
 - b. A certification from the Air District verifying that the Wood Burning Heater meets the eligibility requirements.
 3. Administrative Requirements – The person who registers the Wood Burning Heater shall retain a copy of the Air District issued registration and make it available upon request.
- B. Penalties – Any person that violates the provisions of 15.10.060 is subject to the following
1. First time violators: a Notice to Comply or Warning will be issued. The Notice to Comply will require that any EPA-Certified Wood Burning Heater be registered within 30 days.
 2. Second time violators: Completion of a wood smoke awareness course that has been approved by the Air District, or payment of a penalty of \$50, or submission of proof of replacement of non-certified device with an EPA-Certified Wood Burning Heater or exclusively gaseous- or liquid-fueled heater.
 3. Third time violators: payment of a penalty of \$150 or submission of proof of replacement of non-certified device with an EPA-Certified Wood Burning Heater or exclusively gaseous- or liquid-fueled heater.
 4. Fourth time violators: payment of a penalty of \$500 or submission of proof of replacement of non-certified device with an EPA-Certified Wood Burning Heater or exclusively gaseous- or liquid-fueled heater.

15.10.070 Within 60 days of the effective date of U.S. EPA publishing a finding that Plumas County PM2.5 Nonattainment Area (Nonattainment Area) has failed to attain the 12 ug/m³ annual PM2.5 standard by the attainment date, all provisions of section 15.10.060 will continue to be in effect, except for the duration of curtailment season (Section 15.10.60 A.1) and curtailment level (Section 15.10.60 A.4) revised as follows:

List of curtailment months in Section 15.10.60 A.1 expands to include months of January, February, March, April, September, October, November, and December.

- A. Curtailment level described in Section 15.10.60 A.4 is lowered from 30 ug/m³ to 20 ug/m³.
- B. During the months of January, February, March, April, September, October, November, and December, the Air District will declare a mandatory curtailment whenever it determines that the 24-hour average PM2.5 concentration may exceed 20 ug/m³ AND when adverse meteorological conditions are expected to persist.

- C. Section 15.10.070 will remain in effect until the Air District submits a new SIP to U.S. EPA addressing the 12 ug/m³ annual PM_{2.5} standard.

15.10.080 Outdoor Wood-Fired Boiler Installation Prohibited.

All outdoor wood-fired boilers are prohibited from installation within the City of Portola.

15.10.090 Wood Stove Retailers/Contractors Required to Provide Educational Materials.

Retailers or Contractors selling or offering for sale new Wood Burning Devices within the City limits shall supply public awareness information with each sale of a Wood Burning Device in the form of pamphlets, brochures, or fact sheets on the following topics:

- A. Proper installation, operation, and maintenance of the Wood Burning Device.
- B. Proper fuel selection and use.
- C. Health effects from wood smoke
- D. Weatherization methods for the home,
- E. Proper sizing of Wood Burning Devices.
- F. Episodic Wood Burning Curtailment levels as defined in Section 15.10.060.

15.10.100 Violations.

Any person who violates any of the requirements of this chapter, or who falsely attests as to information as part of compliance with this chapter, is subject to penalties and punishments as set forth in Chapter 1.10 of this Municipal Code, may be subjected to the applicable penalties and punishments prescribed by law for perjury, and may have any license or permit issued by the City be revoked, including but not limited to a building permit or certificate of occupancy.

15.10.110 - Continuing violations—Each day being a separate violation.

After any person who is responsible for a violation of any provision in this chapter has been given notice of the violation, and such person does not comply or otherwise correct the violation within the time prescribed in the notice, then from that day forward, the continuing violation shall be deemed to be a separate offense on each and every day that the violation persists. A person who knowingly commits or suffers the continuing violation shall be guilty of a separate offense each and every day that the violation persists.

Section 2. Approval. The City of Portola Wood Stove and Fireplace Ordinance concerns revisions to wood stove regulations and the Prohibition of Open Burning of Yard Waste. The text changes reflecting the Amendment are incorporated by reference as if fully set forth herein into Title 15 of the Portola Municipal Code, and are hereby approved.

Section 3. CEQA. The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has no potential for causing a significant effect on the environment.

Section 4. Enactment. The City of Portola Wood Stove and Fireplace Ordinance Amendment and the Prohibition of Open Burning of Yard Waste shall be effective 30 days from the date of its approval by the City Council.

Section 5. Summary Publication and Posting. Within thirty (30) days after final adoption of this Ordinance, the City Clerk shall have a summary of this ordinance prepared by the City Attorney and published as required by the California Government Code. Within fifteen (15) days after final adoption of this ordinance, the City Clerk shall have it posted in three (3) public places.

This ordinance was introduced, read and the second reading was waived at a Regular Meeting of the City Council of the City of Portola duly held on September 22, 2021. The ordinance was finally passed and adopted at the Regular Meeting of the City Council of the City of Portola duly held on October 13, 2021, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

Bill Powers, Mayor

ATTEST:

Tara Kindall, Deputy City Clerk

I, Deputy City Clerk of the City of Portola, do hereby certify that the foregoing Ordinance was duly and regularly passed by the City Council of the City of Portola at a Regular Meeting held on October 13, 2021.

Tara Kindall, Deputy City Clerk