

CITY OF HARRISON, IDAHO
REGULAR ORDINANCE NO. 486

AN ORDINANCE OF THE CITY OF HARRISON, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, FINDING THAT A PLAN COMPONENT IS BEING PREPARED; FINDING AN IMMINENT PERIL TO THE PUBLIC HEALTH, SAFETY, OR WELFARE STILL EXISTS; DECLARING A CONTINUED MORATORIUM FOR THE ISSUANCE OF WATER AND SEWER (WASTEWATER) PERMITS; PROVIDING FOR A METHOD OF PRESERVING PROPERTY RIGHTS DURING SUCH MORATORIUM; PROVIDING FOR THE TEMPORARY SUSPENSION OF ALL CITY LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE PUBLICATION OF A SUMMARY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Harrison, Idaho is a political subdivision of the State of Idaho; and,

WHEREAS, the Mayor and City Council ("Council") of the City of Harrison ("City") exercise their powers, *inter alia*, for the benefit of the public of the City to include, but not necessarily limited to, the health, safety, and welfare of the public; and,

WHEREAS, Title 67, Chapter 65 of the Idaho Code is the Local Land Use Planning Act, the purposes of which are set forth in Idaho Code 67-6502, and which cities are directed by law to exercise such powers conferred by such foregoing chapter; and,

WHEREAS, Title 67, Chapter 65, Section 6524 of the Idaho Code sets forth that when a governing board, *e.g.*, a city council, finds that a plan is being prepared for its jurisdiction, may adopt an interim ordinance if the governing board finds that imminent peril to such public health safety, or welfare requires the adoption of interim ordinances or interim moratoriums it shall state its reasons for such finding and that interim moratoriums may be enacted to the issuance of certain classes of permits; and,

WHEREAS, Title 67, Chapter 65, Section 6524 further provides that in order to sustain the restrictions established by an interim ordinance, the governing board must adopt a regular ordinance following the notice and hearing procedures provided in Idaho Code Section 67-6509; and

WHEREAS, on March 28, 2022, the City adopted its Interim Ordinance No. 482 (Interim Ordinance), restricting water and wastewater hook-up permits, for a period not to exceed one (1) year, excepting additional water and/or wastewater permits certified by the City's Engineer and Idaho Department of Environmental Quality as being safe to issue; and,

WHEREAS, the Mayor and Council of the City have been informed by the Idaho Department of Environmental Quality ("IDEQ"), amongst others, that the City still exceeds certain discharge thresholds of wastewater effluent from its wastewater treatment plant and

that the issuance of further water and wastewater hook up permits could lead to additional exceedances; and,

WHEREAS, the Mayor and the Council for the City take notice that continued exceedances of wastewater effluent negatively impact the purposes set forth in Idaho Code 67-6502; and,

WHEREAS, the Mayor and Council of the City did, by Resolution dated February 9, 2023, enter into an Agreement with the Idaho Department of Environmental Quality (DEQ) for design and construction of certain Wastewater System improvements, to be funded through a grant provided through the American Rescue Plan Act ("ARPA"), and the Idaho State Revolving Fund ("SRF"); and

WHEREAS, the Mayor and Council of the City are considering entering into a similar Agreement with DEQ for design and construction of similar improvements to the City's Drinking Water System, to be funded through ARPA and SRF; and

WHEREAS, without the improvements to its Wastewater System and Drinking Water System, the Mayor and Council of the City have determined that the current condition of these systems continues to pose an imminent peril to public health, safety or welfare of all of the citizens and public of the City; and

WHEREAS, many members of the general public continue to inquire about additional water and wastewater permits available from the City; and,

WHEREAS, the Mayor and Council wish to provide additional permits to be available to the public but do not want to do so if such additional permits will endanger the public health, safety, or welfare of all of the citizens and public of the City; and,

WHEREAS, the Interim Ordinance provided that the Mayor and Council of the City intended to adopt a regular ordinance addressing the issues contained herein; and,

WHEREAS, the City has been working diligently to design and construct Wastewater and Drinking Water system improvements to address the imminent peril noted above, with a purpose towards effectuating the ability to accept, process, and issue new water and wastewater hook-up permits; and,

WHEREAS, the Mayor and Council of the City have determined that it is in the best interests of the citizens and public of the City to continue the moratorium on additional water and/or wastewater permits until such time that the Wastewater System and Drinking Water Systems referenced herein are completed.

NOW, THEREFORE, after notice and hearing BE IT ORDAINED by the Mayor and City Council of the City of Harrison:

- (1) All notices and publication of the public hearing and meeting held on March 23, 2023 have been given and posted according to applicable law; and,
- (2) That the Council finds that the projects contemplated herein constitute a plan, plan component, or an amendment to a plan prepared for the City, to wit: the *Wastewater Facility Plan* being prepared by Keller Associates; and
- (3) That the Council finds an imminent peril to the public health, safety, and welfare still exists based upon the reported exceedances of discharge thresholds of wastewater effluent noted herein; and,
- (4) That based thereon, the Council declares there shall be a moratorium on the issuance of certain classes of permits to wit: water and wastewater hook-up permits, such moratorium to continue until completion of the Wastewater System and Drinking Water System improvements funded through ARPA and SRF are certified as completed, as determined by the City's Engineer and DEQ, with a completion date on or before December 1, 2026; and,
- (5) That the Council declares, subject to existing agreement(s), that the process in place to ensure citizens whose properties are affected can secure a first-in-time, first-in-right place to access such permits upon the lifting of the moratorium set forth herein should continue as it has been administered during the previous interim moratorium; and,
- (6) That such process set forth in paragraph (5) above has been and should be continued to be made widely known to the public; and,
- (7) That such process set forth in paragraph (5) above shall be as follows:
 - a. The City Staff should ensure that all applicants on the list shall be bona-fide, affected property owners within the City limits and that places on the list should not be taken up for speculative purposes;
 - b. The list shall annotate the name, address, telephone number, and email address of the applicant as well as the property legal description or lot number and the applicant's signature;
 - c. Each applicant's name shall be placed on the list only after a completed application for water and/or wastewater services is submitted to the City staff;
 - d. Each page of the list shall require a certification of the applicant(s) that they have notice of this moratorium and its terms;
 - e. No fees shall be required or accepted at the time of an applicant's name being placed on the list; however, each applicant shall be informed that

the failure to pay the required hook-up fees within ninety (90) days, and allowance for one (1) extension for thirty (30) days thereafter upon written notice to the City, after the lifting of the moratorium will result in the applicant losing their place on the list and being moved to the bottom of it; and, that no permit(s) shall be issued until the full hook-up fees are paid;

f. That as soon as possible upon the lifting of the interim moratorium, the City staff shall contact each applicant, in order of seniority on the list, via telephone, email, and/or regular mail to notify them that the interim moratorium has been lifted;

g. That the City may issue additional water and/or wastewater permits during this moratorium, if certified by the City's Engineer and Idaho Department of Environmental Quality as being safe to issue.

(8) That all provisions of the City Code in conflict with this ordinance are temporarily suspended until its repeal or lapse, at which time they shall be reinstated to full force and effect;

(9) That in the event that any provision herein is found to be unenforceable, the remainder of this ordinance shall continue in full force and effect;


(10) That a summary of this interim ordinance and moratorium be published in the official city newspaper;

(11) Unless repealed earlier by the Council, this ordinance and moratorium shall be effective until completion of the Wastewater System and Drinking Water System improvements funded through ARPA and SRF are certified as completed, as determined by the City's Engineer and DEQ, with a completion date on or before December 1, 2026.

(12) An emergency is declared and this ordinance and moratorium shall take effect immediately upon approval.

APPROVED, ADOPTED and SIGNED this 23rd day of March, 2023.

AYES: 6
NAYS: 0
ABSTAINS: 0


Wanda Irish
Mayor

ATTEST: 
Miriah Pfeiffer
City Clerk