

**City of Stevenson
Ordinance No. 2023-1194**

AN ORDINANCE RELATED TO WASTEWATER CONNECTIONS IN THE CITY OF STEVENSON'S SERVICE AREA, AND PURSUANT TO RCW 35A.63.220 AND OTHER APPROPRIATE AUTHORITY AUTHORIZING A MORATORIUM EXTENSION ON FURTHER COMMERCIAL WASTEWATER CONNECTIONS AND APPLICATIONS FOR COMMERCIAL WASTEWATER CONNECTIONS AS MORE PARTICULARLY SET FORTH HEREIN.

WHEREAS, the City of Stevenson ("City") received an Administrative Order #14221 letter in July of 2017 from the Washington State Department of Ecology ("DOH"), stating that the City is in violation of its NPDES permit as it has exceeded the Wastewater Treatment Plant design criteria for five (5)-Day Biochemical Oxygen Demand (BOD5) or Total Suspended Solids (TSS) on twenty-one (21) occasions between January 2012 and December 2106 and exceeded effluent limits for TSS or Fecal Coliform on five (5) occasions between September 2015 and September 2016; and

WHEREAS, the City has a work plan to address the wastewater treatment deficiencies and is presently constructing wastewater treatment plant improvements that have the capacity to solve the City's wastewater treatment problems, which will take time and requires multiple funding streams; and

WHEREAS, a moratorium on further filing and processing of commercial applications for wastewater connections that will impact the BOD5 or TSS load on the wastewater treatment plant is necessary while the City completes the construction of the treatment plant improvements and increases the plant's capacity, or otherwise mitigates the current plant limitations; and

WHEREAS, the Stevenson City Council finds that the City's ability to plan for utility service and urban growth will be jeopardized unless this moratorium is authorized; and

WHEREAS, the Stevenson City Council finds that the authorization of this moratorium is necessary to protect the health, welfare, safety and future economic viability of the City; and

WHEREAS, RCW 35A.63.220 provides that, "A council or board that adopts a moratorium or interim zoning control, without holding a public hearing on the proposed moratorium or interim zoning control, shall hold a public hearing on the adopted moratorium or interim zoning control within at least sixty days of its adoption, whether or not the council or board received a recommendation on the matter from the commission. If the council or board does not adopt findings of fact justifying its action before this hearing, then the council or board shall do so immediately after this public hearing. A moratorium or interim zoning control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium or interim zoning control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal"; and

WHEREAS, RCW 36.70A.390 provides that, "A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, RCW 35A.63.220 or RCW 36.70A.390, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal"; and

WHEREAS, moratoria and interim zoning control enacted under RCW 35.99.050, RCW 35A.63.220 or RCW 36.70A.390 are methods by which local governments may preserve the status quo so that new plans and regulations will not be rendered moot or frustrated by intervening development; and

WHEREAS, the Stevenson City Council previously adopted a moratorium extension on September 15, 2022 which will expire on September 15, 2023; and

WHEREAS, a work plan has been developed for the design, funding and construction necessary to upgrade the city's wastewater system and that work plan is attached to this ordinance as Exhibit A; and

WHEREAS, due to supply chain issues substantial completion of the wastewater treatment plant upgrades project has been delayed by one (1) year; and

WHEREAS, the City has hired additional staff to operate the wastewater treatment plant and worked with known significant industrial users to mitigate the risk of additional plant discharge permit violations allowing a change to the moratorium; and

WHEREAS, the Stevenson City Council held a duly advertised public hearing on April 20, 2023, to consider public comment concerning the authorization of such moratorium; and

WHEREAS, the Stevenson City Council adopted Findings of Fact as stated in Resolution No. 2023-408 after the public and staff gave testimony at the public hearing; and

WHEREAS, the Stevenson City Council finds that the best interests of the City would be served if such a moratorium extension was authorized.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STEVENSON, STATE OF WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A one (1) year renewal of the moratorium is hereby imposed on accepting non-domestic, significant industrial user applications for wastewater connections with discharge character above a very high strength classification (BOD5 greater than 2,000 mg/L) or loading rate greater than 5 percent of the wastewater treatment plant design loading rate, that will impact the BOD5 or TSS load on the wastewater treatment plant, for wastewater service inside and outside its corporate boundaries that otherwise would have been authorized under said section. This moratorium does not apply to domestic, standard user wastewater connections.

Section 2. The moratorium imposed pursuant to Section 1 above may be extended for one or more additional six (6) month periods or up to one year if a work plan is implemented, and the City's work plan determines that such extension is necessary to avoid further violations and to implement a permanent fix to the City's wastewater system.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or other portion of this Ordinance, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

Section 4. Effective date. This ordinance shall become effective following passage and publication as provided by law.

ADOPTED this 20th day of April, 2023.

CITY OF STEVENSON

Scott Anderson, Mayor

ATTEST:

Leana Kinley, Clerk

APPROVED AS TO FORM:

Robert C. Muth, City Attorney

Exhibit A Wastewater Upgrade Project Plan

