

ORDINANCE NO. 1353

AN ORDINANCE DECLARING A 180 DAY MORATORIUM ON THE ACCEPTANCE OR PROCESSING OF APPLICATIONS FOR PERMITS TO PERMIT MINERAL EXTRACTION THROUGH OIL AND GAS EXPLORATION OR OPERATIONS WITHIN THE CORPORATE LIMITS OF THE CITY OF PAYETTE; DIRECTING THE CITY STAFF TO INITIATE A COMPREHENSIVE REVIEW OF THE CITY'S ORDINANCE GOVERNING PROCEDURES FOR MINERAL EXTRACTION AND OIL AND GAS EXPLORATION AND EXTRACTION AND TO PROPOSE REVISIONS THERETO; PROVIDING A PROCEDURE FOR A VARIANCE FROM THIS MORATORIUM; PROVIDING A CUMULATIVE CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY; AND PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON PASSAGE.

WHEREAS, the City of Payette, Payette County, Idaho (the "City"), is a municipal corporation duly organized and operating under the laws of the state of Idaho; and

WHEREAS, the City Council of the City of Payette is aware of an increased interest in oil and gas exploration and production in the Southwest Idaho area; and

WHEREAS, the City Council has conducted such investigations as it deemed necessary to determine the state of regulations now applicable to oil and gas exploration and other forms of mineral extraction under the current ordinances and regulations of the City of Payette; and

WHEREAS, the City Council, after due and careful consideration, has determined that the current regulations may not be adequate to address environmental and land use compatibility issues created by oil and gas exploration and mineral extraction activities; and

WHEREAS, the City Council finds that it is necessary in order to promote the health, safety, and general welfare of the community to promulgate a set of procedural and substantive standards pending the City's investigation of the impacts of gas and oil well drilling and production in the city and its Impact Area; and

WHEREAS, the City Council believes that it is reasonable and necessary to update municipal ordinances and regulations to provide for a fair and equitable system of regulations relating to oil and gas exploration and mineral extraction so as to

protect the property interest of mineral estate owners while protecting the rights, opportunities and property interests of surface estate owners; and

WHEREAS, it is important and necessary to preserve the status quo while a review and update of these regulations are being developed and implemented to ensure compatible land uses that do not negatively impact property values or neighborhood character; and

WHEREAS, the City Council believes that the staff of the City of Payette should undertake those studies or analyses necessary to prepare the appropriate recommendations for Council action; and

WHEREAS, the primary gas fields being explored are located in the Payette River corridor, and

WHEREAS, the Payette River corridor runs through the City of Payette and an old well that bubbles natural gas is located on the southwest side of the City; and

WHEREAS, the City anticipates that there could be an interest in drilling along the river within the City limits before ordinances and regulations can be properly evaluated and put in place the Payette City Council has found an emergency to exist; and

WHEREAS, the City Council of the City of Payette recognizes that there may be individuals or businesses who have a legitimate reason to seek a variance from the requirements of this moratorium based upon the unique needs of their project and who are able to demonstrate that the approval of their project will not defeat the purposes of the City in adopting this moratorium.

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

SECTION 1

A moratorium is hereby imposed on the receipt, processing and approval of applications for oil and gas well permits that would permit mineral extraction and/or oil and gas exploration and extraction within the corporate limits of the City of

PAYETTE. The moratorium shall be in place for one hundred eighty (180) days following the adoption of this Ordinance and may thereafter be extended by the City Council for good cause shown.

SECTION 2

The moratorium established herein shall apply to all gas wells and developments that do not have an existing oil and gas well permit for oil and gas exploration or mineral extraction under the terms of City Ordinance. Any application now in process is subject to this moratorium.

SECTION 3

The City staff are hereby directed to initiate and complete those studies and analysis necessary to determine what, if any, regulatory changes to the ordinances of the City of Payette are reasonable and necessary to permit mineral extraction and oil and gas exploration and extraction without negatively impacting the interest of surface estate owners within the City. The City Staff are directed to review all appropriate environmental, planning materials and development regulations to suggest changes, if appropriate, that would protect the interest of both mineral estate owners and surface estate owners while ensuring the highest degree of concern for the preservation of the public health, safety, morals and general welfare. The staff shall complete their work and make their recommendations to the City Council within one hundred eighty (180) days following the adoption of this Ordinance or; if they should determine that this time period is not feasible, report back to the City Council with a proposed calendar in which they will complete their work. The Staff shall solicit such input as they deem necessary and appropriate from all affected and interested parties in preparing their recommendations.

SECTION 5

Any property owner who believes that the imposition of this moratorium causes a unique and unreasonable hardship upon his or her property or business shall have the right to request a variance and shall submit a written request to the City Council by transmitting same to the City Clerk's office. The request must provide the following information:

- a. A description of the property to be covered by the variance.
- b. An explanation as to why the application of the moratorium is unreasonable as applied to the applicant's property.
- c. A description of any negative impacts created by the moratorium provision.
- d. Any property interests asserted by the applicant.
- d. A plan to insure that the public health, safety and welfare is protected during the drilling and/or extraction process.

The City Clerk's office shall place the request for a variance on the agenda of the City Council for consideration at a public meeting. The applicant shall receive written notice of the date of the proposed hearing on the variance request. The City staff shall not be required to provide written notice of the variance request to any other individual or entity. On the date that the item is set for hearing, the City Council shall conduct a public hearing on the variance request giving any individual who desires to present information or evidence to the City Council on the appropriateness or inappropriateness of the variance, the opportunity to appear before the City Council and present such information. At the conclusion of the hearing, the City Council, by majority vote, may approve a variance to the provisions of this moratorium ordinance or may deny the request for variance. The City Council, in granting such variance and subsequent permit, may place such reasonable conditions and requirements on such permit to insure the public health, safety and welfare is protected.

SECTION 6

This ordinance shall be cumulative of all provisions of the ordinances of the City of Payette, Idaho, as amended, except where the provisions of this ordinance are in direct conflict with the provisions of such Ordinances, in which event the conflicting provisions of such Ordinances are hereby repealed.

SECTION 7

If any portion of this Ordinance should be found to be unconstitutional or unenforceable for any reason, the remainder of the Ordinance shall be applied to effectuate the purposes of this Ordinance.

SECTION 8

This moratorium shall remain in full force and effect upon its passage and for a period not to exceed 180 days, unless terminated prior to that time by action of the City Council.

SECTION 9

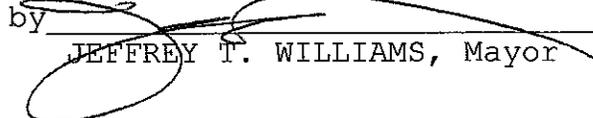
This Ordinance shall be in full force and effect immediately upon passage and publication as required by the laws of the State of Idaho.

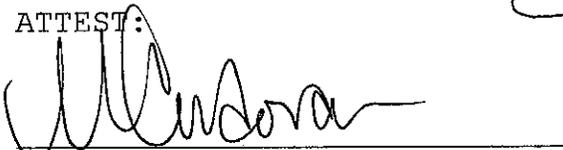
SECTION 10

Any violation of this Ordinance shall be a misdemeanor punishable by fine and/or imprisonment up to but not exceeding the maximum penalties set forth in Idaho Code § 50-302, as amended. Each day during which a violation takes place or is allowed to continue shall constitute a separate violation of this chapter.

PASSED and APPROVED by the Mayor and City Council of the City of Payette, Idaho this 19th day of September, 2011.

CITY OF PAYETTE, IDAHO

by 
JEFFREY T. WILLIAMS, Mayor

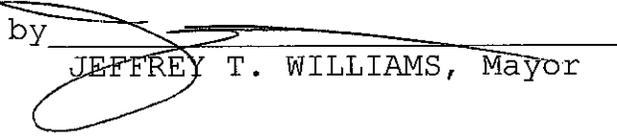
ATTEST:

Mary Cordova, City Clerk

SUMMARY OF ORDINANCE 1353

Ordinance 1353 is an ordinance of the City Of Payette, Idaho, adopted September 19, 2011. The ordinance may be descriptively known as the Payette City Moratorium on permits for oil and gas exploration. Ordinance 1353 makes a finding that an emergency exists and imposes a 180 day moratorium on the acceptance or processing of applications for permits which would allow mineral extraction through oil and gas exploration or operations within the corporate limits of the city of Payette. The ordinance directs the city staff to initiate a comprehensive review of the city's ordinances governing procedures for mineral extraction and oil and gas exploration and extraction and to propose revisions thereto. The ordinance provides a procedure for a variance from the terms of the moratorium. Ordinance 1353 repeals conflicting ordinances, provides a severability clause, provides penalties for a violation and takes effect immediately upon passage and publication. This summary is approved by the city of Payette, Idaho.

CITY OF PAYETTE, IDAHO

by


JEFFREY T. WILLIAMS, Mayor

ATTEST:


Mary Cordova, City Clerk

I, Bert L. Osborn, City Attorney for the City of Payette Idaho, certify that I am familiar with Ordinance 1353 of the City of Payette, Idaho and with the foregoing summary. The summary is true and complete and provides adequate notice to the public. The full text is on file with the Payette City Clerk and shall promptly be made available to any citizen upon request.

Dated this 26th day of September, 2011.


Bert L. Osborn