

EXHIBIT A

Chapter 13.50
WATER CONSERVATION

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The purpose and intent of this chapter is to encourage water conservation for our environment and for future generations. Water conservation helps protect a shared

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natural resource and retains more water in the Snoqualmie River and other rivers and bodies of water for fish, wildlife and other environmental benefits. Conservation of this limited natural resource also stretches our valuable water supply to meet the needs of citizens within our urban growth area ensuring that we will have sufficient beneficial use and mitigation water for all future generations. This ordinance will also benefit city water customers because using water efficiently helps reduce water and sewer bills. The City's goal is to achieve compliance with water conservation primarily through education but when necessary to have enforcement tools to preserve and protect this precious natural resource. The City Council is exercising its broad police powers to protect the public health, safety and welfare by adopting this conservation ordinance in order to ensure the continued delivery of safe and reliable drinking water to existing and future water customers and to ensure the protection of water as a finite natural resource.

B. Goals. The goal of this chapter is to reduce general water use to achieve the purposes described in Section 13.50.000(A).

13.50.005 Definitions.

- A. "Base Allocation" means the amount of water allocated to each customer class for both interior and exterior use on a monthly or billing cycle basis.
- B. "Best Management Practice (BMP)" means a policy, program, practice, rule, regulation ordinance or the use of devices, equipment or facilities that result in more efficient use or conservation of water.
- C. "Certified Landscape Irrigation Auditor" means a person certified to perform landscape irrigation audits by a professional trade organization or other educational organization.
- D. "City" means the city of North Bend, Washington.
- E. "City Administrator" means the City Administrator of the City or their designee unless otherwise stated or indicated by context.
- F. "City Customer" means a customer of the City Water System located within the corporate limits of the City of North Bend or a customer of the Sallal Water Association located within the corporate limits of the City of North Bend.

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F. “City Water System” means those facilities within and without the City that are within the City’s Water Service Area or within its Urban Growth Area as defined by the Washington State Growth Management Act.

G. “Coordinated Water Plan” means the the 1990 East King County Coordinated Water System Plan prepared and adopted consistent with Chapter 36.94 RCW and Title 13 of the King County Code .

H. “Customer” means any person or entity using water supplied by the City or the Sallal Water Association within the City’s Urban Growth Area and within unincorporated King County and within the City’s Water Service Area. The term includes but is not limited to: tenants of single-family dwellings or duplexes, owners of real property and management companies responsible for property management of real property.

I. “Department” means the City of North Bend Public Works utilities department.

J. “Director” means the City’s Public Works Director or their designee.

K. “Fire Chief” means the fire chief of the Eastside Fire and Rescue Department or their designee.

L. “Irrigation Service” means a water service that is exclusively for landscape irrigation purposes.

M. “Gauge at Masonry Pool” means the gauge measuring the level of water at the Masonry Pool, the smaller body of water immediately upstream of the Masonry Dam

N. “Non-City Customer” means a customer of the City Water System located outside the corporate limits of the City of North Bend.

O. “Nonresidential Customer” means a customer of the City’s water system on whose property a residence is not situated.

P. “Person” means any person, business, firm, partnership, association, corporation, company, entity, or organization of any kind.

Q. “Residential Customer” means a Customer of the City or Sallal Water Association within the City on whose property, whether owned or rented, at least one person resides.

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R. “Sallal Water Association” means a private member based association with a water service area within portions of the City and the City’s UGA.S

S. “Significant” means more than a small, trivial or insignificant amount and requires a substantial amount of water being wasted or a significant adverse economic impact.

T. Urban Growth Area” or “UGA” means a boundary created pursuant to the Washington State Growth Management Act (Chapter 36.70A RCW) within which the City is obligated to deliver “urban services,” including water service.

U. “Water Conservation” means the best management practices for the reasonable and efficient use of water for both indoor and outdoor water demands.

V. “Water Conservation Program Guidelines” means the program guidelines developed, maintained, and managed by the Director pursuant to this chapter.

W. “Water Service Area” means the boundaries of the City Water System as defined by the King County Utilities Technical Review Committee.

X. “Wasteful Use of Water” is as defined in North Bend Municipal Code Section 13.50.050.

13.50.010 Application.

The provisions of this chapter shall apply to all Customers of the City and the Sallal Water Association within the corporate limits of the City.

13.50.020 City responsibility.

A. The City shall have the right to manage water demand for all Customers within the corporate limits of the City and for City Water System Customers outside of the corporate limits of the City but within the City’s Water Service Area.

B. Public Education Program and Public Efficiency Goals. The Director shall implement a public education program and a public process for establishing eater efficiency goals in compliance with all applicable rules, regulations and laws.

13.50.030 Water conservation program

A. The Director is authorized to develop best management practices for water use and conservation.

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B. The Director shall oversee this chapter's implementation, compliance with best management practices, and any laws mandating water conservation.

13.50.035 Water Rebate Program

A. Toilets and Urinals. The Director shall implement a rebate program for the replacement of older toilets and urinals with efficient models as determined by the Director but specifically including WaterSense toilets and urinals and high-efficiency commercial flush-valve toilets.

B. Landscaping. The Director shall implement a landscape rebate program for any customer replacing existing non drought tolerant landscaping or lawns with drought tolerant landscaping as determined by the Director.

C. Irrigation. The Director will implement a rebate program for the replacement of automatic sprinkler systems with any efficient drip only irrigation system.

D. Rain Collection Barrels. The Director will implement a rebate program to provide any City Customer rain barrels to use in order to collect rain and stormwater for landscape irrigation purposes

E. Other Rebate Programs. The Director is authorized to implement any additional rebate program described in the Saving Water Partnership among the City of Seattle and other water utilities, which program is adopted by reference as now existing or later amended; provided, that this program and all rebate programs shall not be implemented unless the Finance Director determines the City Council approved budget provides sufficient funds in the water utility fund to pay for such rebate programs.

13.50.040 Base allocation of water.

The Director may develop a base allocation for each class of customer account, taking into account the needs and characteristics of each customer class. This base allocation may be used to evaluate compliance with the conservation stage in effect and to encourage the reasonable and efficient use of water. The Coordinated Water Plan provides for maximum per capita water use and is hereby incorporated herein by this reference as now existing or hereafter amended. For residential customers, this base allocation shall be as follows:

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- (1) Lots of .75 acre or less, is no more than 488 gallons of water per day (approximately 55.5 cubic meters or 1957 cubic feet per month) per household based upon the maximum per capita amount set forth in the Consolidated Water Plan; or
- (2) Lots greater than .75 acres, no more than 586 gallons of water per day (approximately 66.6 cubic meters or 2348 cubic feet per month) per household;

provided, however, if a Customer has occupants exceeding the average of 2.8 persons per household, the Customer's base allocation shall be increased pro rata based upon such additional persons and provided, further, if the Customer has a lot larger than 1 acre and believes that the size of the Customer's lot results in exceeding the above is average maximums, the Customer may file an appeal to the Director to increase this maximum allocation for these parcels.

13.50.050 Wasteful use of water.

Any of the following acts or omissions, whether intentional, unintentional, willful, or negligent, shall constitute the wasteful use of water:

- A. Significant water flowing away from a property caused by excessive application(s) of water beyond reasonable or practical irrigation rates, duration of application, or other than incidental applications to impervious surfaces.
- B. Causing or permitting a significant amount of water to discharge, flow, run to waste into or flood any gutter, sanitary sewer, water course or storm drain, or to any adjacent lot, from any tap, hose, faucet, pipe, sprinkler, or nozzle. In the case of irrigation, "discharge," "flow" or "run to waste" means that water is applied to the point that the earth intended to be irrigated has been saturated with water so that additional applied water then flows over the earth. In the case of washing, "discharge," "flow," or "run to waste," means that water in excess of that necessary is applied to wash, wet, or clean the dirty or dusty object, such as an automobile, sidewalk, or parking area.
- C. Allowing water fixtures or heating or cooling devices to leak or discharge water after becoming aware of such leak or discharge, except as it applies to condensate drains.
- D. Maintaining ponds, waterways, decorative basins, or swimming pools without water recirculation devices or with known leaks, both seen and unseen.

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- E. Discharging water from, and refilling, swimming pools, decorative basins, or ponds in excess of the frequency reasonably necessary to maintain the health, maintenance, or structural considerations of the pool, basin or pond, as determined by the Director.
- F. Continued operation of an irrigation system that applies water to an impervious surface or that is in disrepair.
- G. Use of a water hose not equipped with a control nozzle capable of completely shutting off the flow of water except when positive pressure is applied.
- H. Irrigation of lawns or landscaping when it is raining.
- I. Overfilling of any pond, pool, or fountain which results in water discharging from the pond, pool, or fountain.
- J. Failure to contact a repair contractor and deliver a repair schedule to the City within five working days when a customer discovers or is notified of leaks in pipes, faulty sprinklers, or other water-related fixtures, unless the Director informs the Customer that the leak must be repaired more quickly, in which case the Customer shall use best efforts to repair the leak as soon as practicable.
- K. Irrigating lawns or landscaping between the hours of 10:00 a.m. and ~~6:00~~ 6:00 p.m., unless a variance is granted by the Director. Using a sprinkler, kiddie pool, water slide or other water recreational device on a lawn for short term recreational purposes shall not constitute "irrigation".
- L. Using potable water from the City Water System for compaction, dust control, or other construction purposes without first obtaining approval from the Director as provided in North Bend Municipal Code Section 13.50.090 and a meter from the City.
- M. Installing a nonrecirculating system in any new automatic car wash or new commercial laundry system or failure to utilize current best management practices for water conservation that are industry standards.
- N. A customer repeatedly exceeding their base allocation of water as described in Section 13.50.040 during stage two or stage three of conservation as described in Section 13.50.070.

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13.50.060 Determination of water conservation stages.

In determining the City Water System's water conservation stage, the Director shall determine whether that system's water supplies available for potable/beneficial use and mitigation water are sufficient to meet the current customer demands on that system and shall consider, among other things:

- A. any variations in the reliability of the water supplies available to the City Water System;
- B. availability of nonpotable water to meet nonpotable demands on the City Water System;
- C. the success, or lack thereof, of previous declarations of a less stringent water conservation stage in causing the water-use reductions sought by the City; and
- D. any agreements between the City and local water purveyors for deliveries of additional water supplies to the City. The Director will select the necessary stage for conservation.

13.50.070 Water use restrictions.

Water use restrictions during the various conservation stages shall, at a minimum, be as listed below and may be augmented by other restrictions as determined necessary by the City Administrator.

- A. During the stage one (basic stage, which will automatically occur each August 15) conservation stage, the following restrictions shall be enforced:
 - 1. Water will be used for beneficial uses; all wasteful use of water is prohibited.
 - 2. Water shall be confined to the Customer's property and shall not be allowed to significantly run off to adjoining property or to the roadside ditch or gutter. Care shall be taken not to water past the point of saturation.
 - 3. Free flowing hoses are prohibited for all landscape watering, vehicle and equipment washing, ponds, evaporative coolers and livestock watering troughs. Automatic shut-off devices shall be installed on any hose or filling apparatus in use for the foregoing or similar purposes.
 - 4. All pools, spas, and ornamental fountains/ponds shall be equipped with a recirculation pump and shall be constructed to be leak proof. Pool draining and

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refilling shall be allowed only to the extent required for health, maintenance, or structural considerations, and must otherwise comply with all applicable federal, state, and local stormwater management requirements.

5. Irrigation of lawns and other landscaped areas is permitted without restrictions as to the day that watering can occur.

B. During the stage two (The Gauge at the Masonry Pool shall be at 1523 feet or less) conservation stage, the following restrictions shall be enforced:

1. All stage one (basic stage) restrictions shall continue to be enforced, except to the extent they are replaced by more restrictive requirements imposed by this section.
2. Landscape and pasture irrigation, except drip irrigation, shall be limited to a maximum of three days per week based on the following odd-even schedule, except drip irrigation may be conducted on any day.
 - a. Customers with street addresses that end with an odd number may irrigate only on Tuesdays, Thursdays, and Saturdays.
 - b. Customers with street addresses that end with an even number may irrigate only on Wednesdays, Fridays, and Sundays.
 - c. No irrigation is permitted on Mondays.
3. Hand and manual watering follows the same odd/even day schedule and may be done anytime during the day.
4. Washing of streets, parking lots, driveways, sidewalks, buildings or other hardscape surfaces is prohibited, except as necessary for health, sanitation or fire protection purposes.
5. Restaurants shall serve water only upon specific request.
6. Public and private streetscape landscaping (medians and frontage) may be watered only on the same schedule as Customers with street addresses that end with an even number.

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7. No water from the City Water System shall be used for construction purposes such as dust control, compaction, or trench jetting, unless the use is approved by the Director.

C. During the stage three (The Gauge at the Masonry Pool shall be at 1517 feet or less) conservation stage, the following restrictions shall be enforced:

1. All stage two restrictions shall continue to be enforced, except to the extent they are replaced by more restrictive requirements imposed by this section.
2. Landscape and pasture irrigation, except drip irrigation, shall be limited to a maximum of one day per week based on the following odd-even schedule.
 - a. Customers with street addresses that end with an odd number may irrigate only on Tuesdays.
 - b. Customers with street addresses that end with an even number may irrigate only on Wednesdays.
 - c. No irrigation is permitted on Mondays, Thursdays, Fridays, Saturdays and Sundays.
3. Public and private streetscape landscaping (medians and frontage) may be watered only on the same schedule as customers with street addresses that end with an even number.
4. No water from the City Water System shall be used to drain and refill swimming pools, artificial lakes, ponds, or streams and no new permits for swimming pools, artificial lakes, ponds or streams shall be issued until the water conservation stage has been declared to be stage one.
5. Water use for ornamental ponds and fountains is prohibited unless required to maintain existing vegetation, to sustain existing fish/animal life or as necessary for public health reasons.
6. New or expanded landscaping on properties is limited to drought-tolerant trees, shrubs, and ground cover and no new turf or grass shall be planted, hydro-seeded or laid.

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7. Washing of automobiles or equipment shall be done at a commercial establishment that uses recycled or reclaimed water.
8. A customer shall contact a repair company to repair all water leaks within twenty-four hours of notification by the utilities department or service may be discontinued.
9. Flushing of sewers or fire hydrants is prohibited, except in case of an emergency and for essential operations.
10. Flushing of fire protection systems is prohibited, except during required maintenance or servicing of the system.
11. No water from the City Water System shall be used for construction purposes such as dust control, compaction, or trench jetting, unless the use is necessary for fire protection system testing, maintenance, or acceptance by the Fire Chief.

13.50.080 New Construction.

A. Construction Water. Water for construction purposes obtained from the City's water supply may only be used within the City's existing corporate boundary. Water for dust control, compaction, and other construction activities shall be subject to the following conditions:

1. Use of water from the City Water System for construction purposes shall require a City-issued construction water meter and a refundable security deposit that includes a monthly meter rental fee as established by the Department. Prior to such water use, the construction water customer must obtain approval from the Director to use the water for construction and agree to comply with all of the requirements of this chapter. The Director may impose such additional conditions on the use of such water, including, but limited to, conditions regulating the purpose for the use of the water, rate of use, location, frequency and quantity of use, and such other conditions as deemed reasonably necessary by the Director to effectuate the purposes of this chapter. The construction meter shall be located by the Department and shall only be relocated or removed by the Department. Unauthorized relocation or removal of a construction meter shall be deemed theft and the offender shall be subject to the penalties set forth in North Bend Municipal Code Section 13.50.170.

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2. Construction water shall only be drawn through a construction water meter. Construction water drawn through an unmetered connection shall be deemed theft of water and shall be grounds for the deposit on the construction meter to be forfeited. The offender shall also be subject to the penalties specified in North Bend Municipal Code Section 13.50.150. In the event the person identified as drawing water without a metered connection does not have a meter, the action shall be deemed theft and the offender shall be subject to the penalties specified in North Bend Municipal Code Section 13.50.150.
3. These requirements for construction water use may be modified or supplemented by other conservation measures as determined appropriate by the Director for the declared conservation stage. The Director may terminate the approval granted to use the construction water based on water use restriction stages, violation of the terms and conditions of use, and/or for conduct that amounts to wasteful use of water.

B. New Construction Requirements.

1. Irrigation. All landscape beds, if irrigated, shall be irrigated with a drip irrigation system and not with an automatic sprinkler system.
2. Rain barrels. All gutters shall connect to rain barrels with hose bibs to allow a property owner to irrigate with storm water.
3. Landscaping. All new landscaping shall comply with other chapters of the NBMC and be drought tolerant to the greatest extent possible.
4. Commercial Construction. All commercial construction shall consider the use of on site underground vaults to collect stormwater for landscape irrigation and roof storm water collections to be used for landscape irrigation.

13.50.090 Irrigation system inspections.

All customers, public and private, with a parcel over one acre shall conduct an annual irrigation system inspection prior to the start of the irrigation season on May 1st of each year. This inspection shall be performed by a Certified Landscape Irrigation Auditor or licensed landscape or irrigation contractor and the results forwarded to the Department in accordance with the procedure outlined in the water conservation program guidelines. Single-family residences are exempt unless the Director determines there has been

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wasteful use of water on a customer's premises and the owner has either not corrected the condition or contacted a contractor to correct the conditions within five days after the City provided written notification to discontinue such practice.

Customers that have a current irrigation system check-up on file with the Department will be allowed one courtesy water waste warning before being deemed in violation of this chapter.

13.50.120 Unauthorized water use.

A. An illegal connection to the City Water System shall either be metered by the property owner within the time specified by the Department or disconnected at the discretion and direction of the Director, and the offender shall be subject to the penalties specified in North Bend Municipal Code Section 13.50.150.

B. Unauthorized use of a fire hydrant, public or private, for anything other than fire flows or permitted and metered construction water shall subject the offender to the penalties specified in North Bend Municipal Code Section 13.50.150 and Chapter 8.36, North Bend Fire Code.

13.50.130 Violations declared a nuisance.

Any activity in violation of this chapter will adversely and seriously affect the public health, safety, and welfare, is hereby declared to be a public nuisance and may be remedied as provided in this chapter, any other applicable portion of the North Bend Municipal Code or applicable state law.

13.50.140 Enforcement.

A. This chapter shall be enforced pursuant to the provisions of this Chapter, Chapters 1.20 and 8.08 of the North Bend Municipal Code, and any other enforcement mechanism available to the City under the North Bend Municipal Code and/or applicable law.

B. Unless otherwise expressly provided in this chapter, the Director shall enforce the provisions of this chapter.

13.50.150 Notice and Penalties

A. The goal of the provisions of this chapter are to achieve voluntary compliance from the Customer, and the City will take reasonable measures to assure the Customer has information available to promptly and efficiently address water use issues. Where voluntary compliance cannot be achieved through initial contacts, education and

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warnings, then appropriate administrative penalties and further action are required. Except as otherwise provided herein, consecutive violations for the same condition causing such violation of any provision of this chapter during a calendar year shall be addressed as follows:

Customer Contact	Notice or Penalty
First	Personal or written notification (or both) of the condition violating a provision of this Chapter with a request to correct the condition
Second	Written notification and issuance of a notice to correct violation. Penalty of up to \$25 a day for City Customers and up to \$50 a day for Non-City Customers, as defined-
Third	Issuance of an administrative penalty up to \$100 a day for City Customers and up to \$200 a day for Non-City Customers, <u>as defined</u> ; and/or other penalties as provided in the Notice of Violation and/or as determined by the Director

B. Penalties.

1. Each of the remedies identified in Chapters 1.20 and 8.08 of the North Bend Municipal Code shall be available for enforcement of the provisions of this chapter. Each day a violation of this chapter continues, it shall be deemed a separate violation subject to the above penalties.

2. In addition to any other penalties provided by this chapter, if a Customer of the City Water System violates any of the water use restrictions during a stage two or three water conservation stage, and such conditions are not corrected within five days after the Customer is given written notice, the City is authorized to do any or all of the following:

a. Meter any flat rate service connection and apply the regularly established metered rates. If the parcel has over two thousand five hundred square feet of landscaping, a separate landscape meter may be installed. Costs for the water meters and installation shall be paid by the property owner.

b. If the service is metered, the Customer shall be billed at twice the metered rate during the time that the violation continues. If more than two thousand five hundred square feet are irrigated and the parcel does not have a separate irrigation meter, then an irrigation meter may be installed. The Customer shall

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be billed at twice the metered rate during the time the violation continues. Costs for the water meter, and for any required cross-connection controls and installation, shall be paid by the property owner.

C. **Appeal.** Any appeal of administrative penalties imposed pursuant to this Chapter, any order to install a mandatory water meter, or any other orders or decisions of the Director shall be appealable to the City Administrator. Such appeal must be made to the City Clerk within fourteen (14) days of the Customer's receipt of the notice of the penalties being appealed. Such appeal shall clearly state the factual and/or legal basis for such appeal and be accompanied by a \$35.00 appeal fee. The City Clerk shall forward that appeal to the City Administrator, the Director, and the City Attorney. The City Administrator shall make best efforts to issue a decision on such appeal within thirty (30) days of the date such appeal is filed with the City Clerk. The City Administrator's decision shall be the final administrative decision and there shall be no right of appeal to the City Hearing Examiner nor the City Council.

13.50.160 Remedies cumulative.

The remedies set forth in this chapter are cumulative to any other remedy available to the city. Pursuit of one remedy shall not preclude any other remedy, and nothing contained in this chapter shall limit or be deemed to prevent the city from pursuing any other remedy available to the city under the North Bend Municipal Code or other applicable law

13.50.170 Variances.

In unusual circumstances, application of this chapter may cause unnecessary hardships or results or adversely impact public recreational activities which promote economic development inconsistent with this chapter's purposes and intent. Therefore, exemptions and variances to some of the requirements of this chapter may be appropriate as delineated below.

A. **Exemption.** The irrigation of recreational ballfields owned by a public agency or a private party, open to the general public and used for tournament purposes which promote tourism and economic activity are exempt from those portions of this chapter which would significantly interfere with delivering such public recreational services.

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B. Authority to Grant Variances. The Director may grant variances from this chapter's provisions during a stage one, two, or three conservation stage as specified in North Bend Municipal Code Section 13.50.070 , Water use restrictions.

C. Other Variances. Customers who seek a variance from this chapter for any reason other than the needs of new landscaping, shall submit to the Department a written request for variance, setting forth, in detail, the extraordinary circumstances that support the application. The Director may approve the application in their discretion; provided, that the variance allows the applicant to use only the minimum amount of water in addition to that allowed by this chapter that the Director reasonably believes is necessary to satisfy the circumstances that support the application. Any such variance shall terminate one year after its issuance, subject to an application for its renewal.

13.50.180 Fire and other emergencies.

Nothing in this chapter limits or may be construed as limiting the availability of water for extinguishing fires, meeting the demands of any other similar emergency, or routine inspection and maintenance of fire hydrants.

13.50.190 City Council Review.

City staff will provide annual water reports to the City Council showing customers' water use for the prior year in order for the City Council to determine the effectiveness of this chapter.