

ORDINANCE 1782

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, ADOPTING LIMITS ON NEW WATER SERVICE CONNECTIONS REQUESTED FOR CERTAIN PROPERTIES WITHIN AND OUTSIDE CITY LIMITS AND WITHIN AND OUTSIDE THE CITY'S WATER SERVICE AREA; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, there are two public water systems providing water service to properties inside North Bend's municipal boundary ("City Limits") -- the water purveyor on the City's west side is the City of North Bend ("City"), and the water purveyor on the City's east side is Sallal Water Association ("Sallal"), a non-profit association; and

WHEREAS, both purveyors have approximately 2,000 water customers each and serve customers located inside the City Limits and outside the City Limits (in unincorporated King County); and

WHEREAS, both the City and Sallal have separate Water Service Areas ("WSAs") as mapped in their individual Water System Plans ("WSPs") that were approved separately by the Washington State Department of Ecology, King County Utilities Technical Review Committee ("UTRC"), King County Council, and Washington State Department of Health ("DOH") during late-2020 and early-2021; and

WHEREAS, the City has a statutory duty to serve properties within its WSA to the extent it has the capacity to do so, and this duty is heightened for properties within the City Limits; and

WHEREAS, the City obtained additional water rights from the state of Washington in 2008 for sufficient capacity to serve projected growth in its WSA and urban growth area ("UGA"), but said water rights are conditioned upon mitigating impacts to the Snoqualmie River when minimum instream flows are not met; and

WHEREAS, the City contracted with Seattle Public Utilities to purchase mitigation water from Hobo Springs. The Hobo Springs supply could be limited during certain drought years, and without an additional mitigation source the City may be unable to serve all of the projected growth within both the existing City Limits and the UGA; and

WHEREAS, the City has negotiated with Sallal for a Water Supply Agreement whereby Sallal would sell mitigation water to the City from an approved mitigation source and the City would supply municipal water to Sallal, but the Sallal Board has failed to approve a

Water Supply Agreement under which Sallal's approved mitigation source would become available to the City; and

WHEREAS, the City has been cautiously limiting the number of new water service connections it approves for development projects due to potential seasonal supply limitations from its Hobo Springs mitigation source; and

WHEREAS, Sallal has declined to provide new water service for large projects within the City Limits but inside the Sallal WSA based on lack of water availability, and in June 2022, the Sallal Board adopted an emergency moratorium prohibiting any new water connections in its WSA, including inside the City Limits; and

WHEREAS, the City Council finds it necessary to take further action in order to best ensure the adequate supply of water to properties inside the City Limits that now lack access to water due to Sallal's moratorium; and

WHEREAS, Sallal appears to be unable to obtain additional water rights or to rescind its moratorium in the reasonably foreseeable future that would enable it to supply water for new development inside the City Limits; and

WHEREAS, the City Council accordingly finds it necessary to take actions within its own control and authority to prioritize water availability for projects within the City Limits until adequate water capacity is available to supply development projects in the City's WSA but located outside the City Limits; and

WHEREAS, on August 2, 2022, the Council adopted Resolution 2034, declaring that the City will (1) prioritize the allocation of its available water system capacity to development projects located inside the City Limits; (2) provide only one equivalent residential unit ("ERU") on a first-come, first-served basis for land parcels located outside the City Limits and within the City's WSA; (3) not provide any water to projects outside of the City Limits and within Sallal's WSA; and (4) reevaluate Resolution 2034 in the event a Water Service Agreement is executed with Sallal or automatically terminate Resolution 2034 in the event of a water system consolidation with Sallal;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Water Connection Limit - City Service Area Outside City Limits:

Available water system capacity shall be prioritized and first allocated to land parcels located within the City Limits. New water connections within the City's WSA but outside the City Limits shall be available on a first-come, first-served based and only after the City has determined that available water capacity exists to serve such parcels. For parcels located within the City's WSA but outside the City Limits, the City will permit only one connection to the City water system consisting of only one ERU of water.

Section 2. No Water Connections Outside City Service Area and City Limits: New water connections shall not be provided to projects or parcels of land located outside of the City Limits and outside of the City's WSA.

Section 3. Future Water Supply Agreement: If a Water Supply Agreement between the City and Sallal is executed in the future, or a consolidation of the City and Sallal water systems is approved and implemented, then this Ordinance shall be evaluated by the City Council for repeal or amendment, as the City Council deems appropriate.

Section 4. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 20TH DAY OF SEPTEMBER, 2022.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published: September 30, 2022

Effective: October 5, 2022

Susie Oppedal, City Clerk