

ORDINANCE 1791

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO THE CITY'S ENVIRONMENTAL PROTECTION, NBMC TITLE 14; AMENDING NBMC SECTION 14.04.050 RELATING TO CATEGORICAL EXEMPTIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, North Bend Municipal Code ("NBMC") Title 14 establishes the City of North Bend's ("City") procedures and policies related to the State Environmental Policy Act ("SEPA"); and

WHEREAS, the City wishes to adopt by reference the categorical exemption thresholds in Washington Administrative Code ("WAC") Chapter 197-11-800, including the standard categorical exemption thresholds for minor new construction in WAC 197-11-800(1)(d); and

WHEREAS, WAC 197-11-800(1)(c) authorizes cities, towns, or counties to raise the exemption levels for minor new construction to those identified in WAC 197-11-800(1)(d), subject to the requirements and process outlined in subsection (1)(c); and

WHEREAS, the City is an incorporated city within a fully planning jurisdiction under the Growth Management Act ("GMA") per RCW 36.70A.040; and

WHEREAS, on November 1, 2022, the City completed the procedural requirements of WAC 197-11-800(1)(c)(i) through (iv) and the Washington State Department of Commerce, with a request for expedited review/Notice of Intent to Adopt Amendment (Submittal ID 2022-S-4495) with analysis and findings to the Department of Ecology, agencies with expertise, affected tribes and jurisdictions, and the public, and received one comment letter from the Master Builders Association on November 16, 2022, in support of the amendments and one email from Michael Thomas sent November 21, 2022; and

WHEREAS, the City has determined that there are adequate existing local, state, and federal environmental regulations in place to mitigate any potential impacts from newly exempt development; and

WHEREAS, the City issued a SEPA Determination of Nonsignificance ("DNS") for the proposed amendment on November 4, 2022, and did not receive any public comments during the appeal period; and

WHEREAS, in taking the actions set forth in this ordinance, the City has complied with the requirements of SEPA, Chapter 43.21C RCW, and documented in Exhibit B how the NBMC addresses overlapping environmental elements; and

WHEREAS, the North Bend Planning Commission, after review of the proposed amendment at its October 27, 2022, meeting, held a duly noticed public hearing on November 16, 2022, and heard oral testimony by the Master Builders Association in support of the amendments; and

WHEREAS, at the conclusion of the November 16, 2022, public hearing, the Planning Commission made a recommendation to amend NBMC 14.05.050, as shown in Exhibit A;

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

Section 1. Findings of Fact: The WHEREAS clauses set forth above are incorporated as findings of fact as if fully set forth herein.

Section 2. NBMC 14.04.050, Repeal and Replace: North Bend Municipal Code Section 14.04.050 is hereby repealed and replaced with a reference to WAC 197-11-800, Categorical exemptions, as shown in Exhibit C attached hereto. The amendment includes adoption of Flexible SEPA Categorical Exemption Thresholds.

Section 3. 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 4. 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 17TH DAY OF JANUARY, 2023.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Lisa Marshall, City Attorney

ATTEST/AUTHENTICATED:

Published: January 27, 2023
Effective: February 1, 2023

Susie Oppedal, City Clerk