

ORDINANCE 1813

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, AMENDING NORTH BEND MUNICIPAL CODE SECTIONS 13.20.040 AND 13.20.060 RELATING TO ON-SITE SEWAGE (SEPTIC) SYSTEM CONNECTION REQUIREMENTS AND NO PROTEST AGREEMENTS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, North Bend Municipal Code (“NBMC”) Subsection 13.20.040(B)(2) provides an application process for a variance from the sewer connection requirements contained in NBMC 13.20.020 to allow for on-site sewage (septic) under certain circumstances and requires that any variance approval be conditioned upon a utility local improvement district (“ULID”) no-protest agreement; and

WHEREAS, NBMC Section 13.20.060 provides for on-site sewage (septic) connection requirements to include a no-protest agreement; and

WHEREAS, the City desires to amend NBMC Sections 13.20.040 and 13.20.060 to remove the condition that property owners execute an agreement not to protest the formation of a local improvement district (“LID”) or a ULID for the installation, construction, expansion, maintenance, repair, rehabilitation or replacement of an existing on-site sewage system; and

WHEREAS, the City hereby finds that it is in the public interest to repeal the requirement that property owners execute an agreement not to protest the formation of a LID or a ULID related to on-site sewage and to update the NBMC as set forth in Sections 1 and 2 of this ordinance;

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

**Section 1. NBMC 13.20.040 (Connection to Public Sewer-Waiver-Variance),
Amended:** North Bend Municipal Code Section 13.20.040 (Connection to public sewer-Waiver-Variance) is amended as follows:

- A. Waiver. The public works director may, at his or her discretion, waive the requirement to connect to public sewer under NBMC 13.20.020(A) if:
 - 1. The building or property is a public facility funded by tax dollars; and
 - 2. The building or property is owned and operated by a public agency for the public benefit; and

3. The septic drainfield is located on a lot area greater than or equal to 10 acres; and
4. The septic drainfield is located on publicly owned property and is operated and maintained by a public agency; and
5. The septic system complies with the requirements of NBMC 13.20.060(A) through (D).

B. Variance. Any property owner may apply for a variance from the sewer connection requirements contained in NBMC 13.20.020 to allow for an on-site sewage (septic) system, which application shall be made on a form provided by the city and evaluated by the public works director. Applicants for preliminary plats or preliminary short plats may not apply for a variance under this subsection.

1. Applications for a variance requested under this subsection shall be granted only if the public works director finds that all of the following criteria are met:

- a. The property is more than 150 feet (or such other distance as may be required by King County health department on-site sewage regulations) from the existing public sewer system, as measured along the right-of-way or dedicated easements; and
- b. The proposed OSS complies with the requirements of NBMC 13.20.060(B) through (D); and
- c. The cost of extending sewer to the property would result in an economic hardship to the property owner. For the purposes of this subsection, “economic hardship” means an unrecoverable cost equal to or exceeding 20 percent of the fair market value of the building site with sewer facilities installed, or if the property is already developed, 20 percent of the fair market value of the building and building site with sewer facilities installed; and
- d. The application satisfies the variance criteria set forth in NBMC 18.26.040(A) through (G).

~~2. Any variance granted pursuant to this subsection shall be conditioned upon the property owner’s execution of a ULID no-protest agreement in accordance with~~

Section 2. NBMC 13.20.060 (Requirements for On-Site Sewage (Septic) Systems).

Amended: North Bend Municipal Code Section 13.20.060 (Requirements for On-Site Sewage (Septic) Systems), is amended as follows:

13.20.060 Requirements for on-site sewage (septic) systems.

~~A. Agreement to Connect. Any installation, construction, expansion, maintenance, repair, rehabilitation or replacement of an existing on-site sewage system (OSS) permitted under this chapter is conditioned upon the property owner's execution of an agreement not to protest the formation of a local improvement district (LID) or utility local improvement district (ULID) for the extension of sanitary sewer if the subject property is included in the proposed district as a benefited property (a "ULID no-protest"); provided, that the execution of a ULID no-protest shall not limit the property owner's right to protest an assessment roll associated with the formation of such ULID. The ULID no-protest shall be recorded with the King County recorder's office and shall run with the land. A copy of the recorded ULID no-protest shall be delivered to the city prior to the issuance of the associated building or development permit(s).~~

AB. Compliance with County Health Regulations. Any installation, construction, expansion, repair, rehabilitation or replacement of an existing OSS permitted under this chapter is conditioned upon the property owner obtaining the approval of the King County health district (KCHD) for such expansion, repair, rehabilitation or replacement, and compliance with all applicable KCHD regulations and requirements.

BC. Preservation of Public Health and Safety. Any installation, construction, expansion, repair, rehabilitation or replacement of an existing OSS permitted under this chapter shall be designed and implemented so that the public health, safety, and welfare will not be endangered and said system will comply with the King County board of health codes and all other applicable health standards of the King County health department.

CD. Preservation of Environment. Any installation, construction, expansion, repair, rehabilitation or replacement of an existing OSS permitted under this chapter shall be designed and implemented such that it will not have an adverse impact on potable water wells, ground water, streams, or other surface bodies of water.

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 20TH DAY OF AUGUST, 2024.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Mary Miller, Mayor

Kendra Rosenberg, City Attorney

ATTEST/AUTHENTICATED:

Published: August 30, 2024
Effective: September 4, 2024

Susie Oppedal, City Clerk