

ORDINANCE 1819

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, DECLARING AN EMERGENCY AND ADOPTING A SIX-MONTH MORATORIUM WITHIN THE CITY OF NORTH BEND ON THE ESTABLISHMENT, LOCATION, OPERATION OR LICENSING OF TOWING AND IMPOUND YARD USES IN THE EMPLOYMENT PARK 1 ZONING DISTRICT; DEFINING TERMS; AND PROVIDING FOR SEVERABILITY, AND PROVIDING THAT THE MORATORIUM WILL TAKE EFFECT IMMEDIATELY UPON PASSAGE

WHEREAS, the City of North Bend (“City”) is in the process of completing a periodic update to the North Bend Comprehensive Plan and development regulations as required under the Growth Management Act (“GMA”). Pursuant to RCW 36.70A.130, the City Council must approve such updates by December 31, 2024; and

WHEREAS, as a part of the statutorily required 2024 periodic update to the North Bend Comprehensive Plan, amendments are proposed to the North Bend Zoning Map that would rezone approximately 37 property parcels from Employment Park 1 (EP-1) Zone to Neighborhood Mixed Use (NMU); and

WHEREAS, on October 18, 2024, the City’s Planning Commission recommended adoption of the proposed zoning amendment to rezone approximately 37 property parcels within the EP-1 Zone to NMU, which under GMA Section RCW 36.70A.115 is necessary to provide additional residential capacity for the City to plan for and accommodate its housing growth targets established by the Puget Sound Regional Council and to meet the State Office of Financial Management’s twenty-year population forecast; and

WHEREAS, towing and impound yards are not an allowed use in the proposed NMU Zone. The NMU Zone is intended for commercial and mixed-use residential development. The impacts of a towing and impound yard include likely 24-hour operation, bright lighting, noise, and visual impacts that are incompatible with adjacent residential uses, such as the sounds of diesel trucks, back-up beepers, and unloading and loading vehicles during late hours; and

WHEREAS, the establishment of a moratorium is necessary to prevent incompatible land uses in the proposed NMU Zone that may create significant impacts to adjacent residents, reduce the potential for future non-conforming uses in the City, and ensure the formation of land uses consistent with the City’s Comprehensive Plan, and

WHEREAS, the North Bend Municipal Code may have inadequate provisions to regulate towing and impound yard uses within Category I and Category II Critical Aquifer Recharge Areas in a manner that prevents harmful impacts to stormwater and groundwater, including possible impacts to the aquifer that serves as the City's domestic water source, because it is typical that towing and impound yards contain damaged automobiles that may discharge contaminants onto the ground that may migrate to water sources, particularly where towing and impound yards contain gravel ground surfaces; and

WHEREAS, all the approximately 51 property parcels in the EP-1 Zone are located within a Category II Critical Aquifer Recharge Area, and portions of the EP-1 Zone are within wellhead protection areas constituting a 3,000-foot radius from North Bend Well Number 2 and Well Number 3. The City wishes to examine the potential detrimental impacts of towing and impound yard uses and operations on the aquifer that constitutes the public drinking water supply; and

WHEREAS, the City wishes to temporarily prohibit the establishment of new towing and impound yard uses within the City's Category I and Category II Critical Aquifer Recharge Areas, and wellhead protection areas, to allow time for potential stormwater and groundwater impacts of such uses to be researched, studied and evaluated; and

WHEREAS, the City Council finds that the establishment, location, operation or licensing of tow and impound yards in the EP-1 Zoning District under the City's existing development regulations in the North Bend Municipal Code would be detrimental to public health, safety and welfare;

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

Section 1. Findings of Fact: The City Council adopts as findings of fact the recitals set forth above, all of which are incorporated herein by reference. Pursuant to Matson v. Clark County Board of Commissioners, 79 Wn. App. 641, 904 P.2d 317 (1995), underlying facts necessary to support this emergency declaration are included in the "WHEREAS" clauses, above.

Section 2. Moratorium Established: Pursuant to the provisions of Article 11, Section 11 of the Washington State Constitution, RCW 35A.63.220, and RCW 36.70A.390, a moratorium is hereby enacted prohibiting in the Employment Park 1 (EP-1) Zoning District in the City of North Bend the establishment, location, operation or licensing of any towing and impound yard. No building permit or other development permit or approval shall be issued for any of the purposes or activities listed above, and no business license shall be granted or accepted while this moratorium is in effect. As used in this ordinance, the following term shall have the meaning set forth below:

- A. "Towing and impound yard" means a facility designated for the temporary storage of vehicles consistent with RCW 46.55 that have been towed due to

traffic violations, such as illegal parking, arrest of the operator, or abandonment, or towed due to inoperability. Vehicles are stored only for a limited duration until they are reclaimed by the owners, moved to a vehicle repair, sales, or auction facility, or moved to a wrecking and salvage yard following insurance or other determinations.

Section 3. Effective Period for Renewal of the Moratorium: The moratorium set forth in this ordinance shall be in effect for a period of six months from the date this ordinance is passed and shall automatically expire at the conclusion of that six-month period unless the same is extended as provided in RCW 35A.63.220 and RCW 36.70A.390, or unless terminated sooner by the City Council.

Section 4. Public Hearing: Pursuant to RCW 35A.63.220 and RCW 36.70A.390, the City Council will hold a public hearing and may adopt additional findings of fact regarding this moratorium within 60 days of the adoption of this ordinance.

Section 5. Referral to Staff: The Mayor is requested to direct City Staff to analyze the City’s development regulations related to towing and impound yards, study potential groundwater and stormwater impacts related to towing and impound yards, and to prepare recommendations for consideration by the City Council.

Section 6. Severability: If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

Section 7. Effective Date: This ordinance, as a public emergency ordinance necessary for the protection of the public health, public safety, public property, or public peace, shall take effect and be in full force immediately upon its adoption.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 5TH DAY OF NOVEMBER, 2024.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Mary Miller, Mayor

Kendra Rosenberg, City Attorney

ATTEST/AUTHENTICATED:

Published: November 15, 2024
Effective: November 5, 2024

Susie Oppedal, City Clerk