

ORDINANCE NO. 4781

AN ORDINANCE AMENDING BEAVERTON CODE (BC) CHAPTER 4.02, WATER SERVICE REGULATIONS; ADDING BC CHAPTER 4.03, NON-POTABLE WATER SERVICE REGULATIONS, RELATING TO THE CREATION AND ADMINISTRATION OF A NON-POTABLE WATER UTILITY; AND DECLARING AN EMERGENCY

Whereas, drinking water is a scarce resource; and

Whereas, access to safe drinking water is essential to human health; and

Whereas, according to the Oregon Health Authority, “each person on Earth requires at least 20 to 50 liters of clean, safe water a day for drinking, cooking and simply keeping themselves clean;” and

Whereas, the Fourth Oregon Climate Assessment Report found that “Oregon continues to warm in all seasons,” with projected changes to precipitation patterns that result in more precipitation in the winter, less snowpack, and decreases in summer precipitation, the lower streamflows will present challenges to “junior water rights holders, hydroelectric power generation, and those not served by reservoir or groundwater storage;” and

Whereas, “[h]igher air temperatures, lower streamflows and decreases in rainfall are expected to raise summer stream temperatures, making it more difficult to meet water quality standards;” and

Whereas, the majority of the City’s drinking water source is dependent on the streamflow in the upper Tualatin River (supplemented by other sources during summer peak use) as opposed to reservoir or groundwater storage, making the City’s drinking water supply susceptible to climate change; and

Whereas, South Cooper Mountain is experiencing a surge in residential development that will increase the demand for safe drinking water; and

Whereas, the City anticipates the demand for safe drinking water to continue to increase with the addition of Urban Reserve Area 6B and continued development in the City; and

Whereas, non-potable water is a sustainable alternative that can be utilized for purposes, such as irrigation, to offset the demand on the City’s drinking water supply and preserve scarce drinking water during peak summer consumption that is necessary for human health; and

Whereas, Oregon Water Resources Department (OWRD) works in consultation with Oregon Department of Environmental Quality and Oregon Health Authority to protect groundwater resources and to safeguard public health; and

Whereas, the Oregon Health Authority and its subdivision, Oregon Drinking Water Services (“DWS”), work to keep drinking water safe for Oregonians; and

Whereas, the non-potable water system is being designed to treat stormwater to meet water quality standards before injecting the water into an aquifer storage and recovery well, as required under a permitting process administered by OWRD, with the purpose of ensuring the safety of the non-potable water system; and

Whereas, the City's intent is to have the non-potable water system capture urban stormwater (often causing downstream erosion and carrying pollutants), treat, and store stormwater for peak summer non-drinking water purposes to preserve safe drinking water for activities essential for human health; and

Whereas, the City's intent is to use the non-potable water system to capture urban stormwater, treat, and store stormwater to use as a mechanism to decrease environmental harm by returning water to streams in the summer; and

Whereas, the City's existing utility regulations do not adequately protect the City's drinking water supply from being depleted for water uses that can be met with non-potable water; and

Whereas, regulatory management of the City's drinking water supply is determined to be necessary for the public health and safety of Beaverton residents; and

Whereas, the City is committed to providing infrastructure and implementing regulations to protect the City's scarce drinking water supply; and

Whereas, the City holds the public health, safety, and welfare, as well as physical assets such as its utility systems and resources, such as safe drinking water, in trust for all its residents; and

Whereas, the City has a fiduciary responsibility to assure that any use of City resources, especially its drinking water supply, benefits all its residents.

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Amendment. Beaverton Code Chapter 4.02, Water Service Regulation, is amended to read as follows:

4.02.020 ~~Property Owner~~ Customer Responsible for All Fees and Charges.

A. ~~The property owner~~ customer of record shall ~~will~~ be responsible for the payment of all water and sewer fees and charges required by these regulations. ~~prescribed in this chapter.~~ If the property is rented and the customer ~~customer renter~~ fails to pay the fees and charges, the city shall ~~will~~ submit a notice ~~the bill~~ to the property owner pursuant to ORS 91.255. Failure to pay may result in termination of water service pursuant to this Section. ~~Water shall not again be furnished to the premises and/or the consumer who used the water services for which payment has not been made, until all outstanding obligations for water supplied to the premises have been paid in full.~~

B. Whenever a customer has two payments tendered ~~declined~~ a check which is returned ~~three times~~ in a two one-year period, the City may require the customer to pay a \$50 security deposit. If the customer fails to pay the security deposit, the City may terminate the water service. When the water service is terminated and any all-outstanding water fees and charges must be paid in full, and the payment must clear the financial institution before the water service is restored.

~~C. If the customer customer's water service has already been is shut off due to failure to pay, the water service will not be restored until the customer has paid the any required security deposit and any outstanding fees and charges are paid. If the customer is still receiving water service, and refuses to pay the security deposit and any outstanding fees and charges, then the city may terminate water service in accordance with BC 4.02.185.~~

~~C. The security deposit, is refundable if:~~

~~1. The customer has kept account payments current for a period of three years and is not currently delinquent in payments; or~~

~~2. the water service is finally terminated and further water service will not be provided to the customer and all charges and fees have been paid in full.~~

[...]

4.02.115 Testing Meters.

When a water customer makes a complaint that the water bill for any particular period is excessive, the City will, on request, have the meter reread and service inspected for leaks. If the customer wishes to have the meter tested, the customer must first shall deposit the meter test fee with the City as security in the amount set by resolution of the Council to cover the cost of the meter test. ~~The meter will then be tested.~~ If the City's meter test reveals a registration in excess of three percent in favor of the City, the amount deposited shall will be refunded and the bill will be adjusted accordingly. The excess registration on the meter, if billed and paid, for the three previous readings for billing shall will be credited to the account. When no error is found, the amount deposited will be retained to defray the expense of the meter test.

4.02.120 Payment and Collection of Water Fees and Charges.

A. ~~The customer is required to pay all C fees and charges for water service are due to the City on by the due date on the bill of mailing or presentation of a statement, of the amount due, and The bill will become delinquent if not paid within twoten days thereafter after the due date.~~

B. If fees and charges for water service to any premises-property become delinquent, written notice shall will be given in accordance with BC 4.02.185 and ORS 91.255. After compliance with BC 4.02.185, if all fees and charges imposed by this ordinance these regulations have not been paid, or arrangements acceptable to the City made to pay by the specified date, no further water shall will be furnished to the premises-property.

C. If water service ~~has been is~~ turned off because of a delinquent account, a service fee, the amount of which will be established by Council resolution, may be collected before service shall be restored. If the service is turned back on without authorization of the City the meter may be removed or padlocked, and an additional fee, ~~the amount of which shall be determined by Council resolution, shall~~ may be collected before service shall will be restored.

~~D. The City, in cases of extreme hardship, may renew service to a delinquent account on receipt of a plan for the payment of the back due amount in installments.~~

~~ED.~~ All water service fees and charges will ~~shall~~ be a lien against the ~~premises property~~ served from and after the date of billing and entry in the City lien docket. The lien docket ~~shall will~~ be made accessible for inspection by anyone interested in ascertaining the amount of the fees and charges against the property. When a bill for water service remains unpaid 60 days after it has been rendered, the lien ~~thereby~~ created may be foreclosed in the manner provided for by ORS 223.610, or in any other manner provided by local or state law, this Code or City Ordinance.

4.02.125 Proration of Monthly Fees and Charges.

Upon request of either an owner, occupant, purchaser, lessor, lessee, or any person contemplating the purchase, occupancy or leasing of any real property in the City, the finance director ~~shall will~~ have the water meter read at any time during regular working hours, ~~that the person requests and~~ The proration of prorate all water fees and charges for a change in ownership or occupancy will be based on ~~for~~ the number of days elapsed since the previous month's billing ~~based on the actual date that change should become effective.~~

4.02.130 Meter Reading Schedule.

All water meters in the City ~~shall will~~ be read on a regularly scheduled basis ~~as jointly established by the finance director and the operations director.~~ The charge for each meter shall be made from one reading date to the next upon the monthly basis established.

4.02.135 Other Supplier's Fees and Charges for Water.

All fees and charges ~~now or hereafter~~ imposed on the City by any supplier for supplying water to the City that are based upon the number of customers of water from the municipal water supply system of the City ~~shall will~~ be added to all other fees and charges imposed for the use of water, ~~under City ordinances.~~

4.02.140 Penalty for Turning Water On or Off Without Authority.

If the water is turned on or off by any person without authority from the City, ~~upon proper notice to the customer,~~ the service may be shut off ~~at the main,~~ or the meter removed. ~~The charge for shutting the service off at the main or removal of the meter shall be the actual cost of the work plus ten percent.~~ All the applicable fees and charges shall will be made against the customer premises where the water is supplied, and the water ~~shall will~~ not ~~again~~ be furnished to the premises property until the fees and charges are paid.

4.02.145 Adjustments and Refunds.

The City may refund overpayments of the water bills or refundable deposits if the ~~deposit is refundable.~~ Refunds due to excess-billing errors of water consumption, leak adjustments, overpayments or duplicate payments by the customer shall will be made ~~to the either~~ by City check or applied as a credit to the following month's statement at the City's sole discretion.

4.02.150 Rates for Premises Within the City Water Customers.

The rates, and fees and charges for water services supplied to ~~premises-~~ City water customers ~~within the City shall will~~ be established by Council resolution.

4.02.155 Rates for Premises Properties Outside the City.

~~Premises Properties~~ located outside the limits of the City that are served by the municipal water system ~~shall will~~ pay the rates which are set by Council resolution for premises property outside the City.

[...]

4.02.180 Emergency Restrictions on Use of Water.

A. If the Council finds that an emergency exists or that the water supply is or will be reduced and that it would be in the best interests of the public health, safety and welfare, the Council may, by resolution, prohibit or restrict the use of water by any or all users.

B. Where the circumstances do not require immediate action, the City Recorder ~~shall~~ will give notice of the prohibitions or restrictions on water use by mailing notice to the ~~premises~~ property served. However, if immediate action is required then notice may be given through information releases to radio, television or through other means.

C. It is a Class 1 civil infraction for any person to use water in violation of the resolution at any time 48 hours after notice was given until the Council rescinds or repeals the resolution.

4.02.185 Water Service Termination.

A. Whenever service is to be discontinued or water to a property ~~premises~~ is to be turned off, and the request for turn off does not come from the customer, the City shall follow these procedures:

1. the City ~~finance department or the operations department~~ shall will give notice by mail, to the property owner and customer stating:

a. that the City intends to terminate the property owner and customer's water service by shutting off water to the customer, property, premises or building;

b. the reason for termination of the service;

c. that before water service is terminated, the property owner or customer has a right to a hearing before the Finance Director ~~mayor~~ on the validity of the reason for termination of water service; and

d. that the property owner and customer must request a hearing on the validity of the termination of service, which request must be received by the City within ten calendar days of the date of the notice. The ~~delinquent notice shall will~~ state the timeframe for requesting a actual date by which the hearing must be requested and the due date after which that the water service shall will be shutoff. The request for the hearing must be in writing and ~~shall will~~ state the grounds upon which the property owner or customer believes the termination to be invalid.

2. If the property owner or customer timely requests a hearing, a hearing ~~shall will~~ be held within ten days of receipt of the request and the property owner and customer ~~consumer~~ given an opportunity to be heard.

a. ~~if~~ the ground for termination was property owner's or customer's failure to pay bills fees or charges, the Finance Director ~~mayor~~ ~~shall will~~ determine what amount is due and owing and inform the property owner and customer that the property owner or customer has ten calendar days to pay the amount. If the property owner or customer has not paid the amount owed within the ten calendar days, water service may be terminated in accordance with subsection (A)-(3).

b. ~~if~~ the ground for termination was a violation of this ~~C~~code, then the Finance Director ~~mayor shall will~~ determine whether the violation occurred.

c. ~~if~~ the Finance Director ~~mayor~~ finds that the violation occurred, the Finance Director ~~mayor~~ may:

1) order the water service discontinued until satisfactory proof is furnished that the violation no longer exists; or

2) give the property owner or customer up to three days to furnish proof that the violation no longer exists. If the property owner or customer does not furnish the proof within the required period of time, the water service may be terminated.

3. If the property owner or customer does not appear for the hearing requested or the property owner or customer does not timely request a hearing, or after a hearing, does not pay the amount due or remedy the violation, ~~then a final shutoff notice shall be hung on the door of the premises stating the date that payment must be received or the violation corrected and proof of correction presented. If payment is not made or the violation corrected and proof presented,~~ the water service may be terminated. No further right to a hearing exists.

4. The City or any of its officers or employees ~~shall will~~ not be liable for any damages that occur because water service is terminated pursuant to this section.

B. The notice provisions in subsection A do not apply to:

1. temporary or permanent disconnections requested by the property owner or customer;

2. emergency situations when immediate or prompt turn off of water is required to prevent damage to persons or property, or to make repairs to the water system; or

3. temporary disconnection to allow installation of extensions or additions to the water system.

C. ~~The City operations department, water division shall will~~ attempt, when possible to give notice to affected property owners or customers of temporary water shutoffs for emergency, repair, maintenance or installation purposes. The notice may be given in any feasible manner including, but not limited to, information releases by radio, television and newspapers or by telephone.

4.02.190 Prohibition of Water Use When Non-Potable Water is Available.

Water service that is regulated by this chapter may not be used for irrigation when non-potable water is available as defined by Chapter 4.03. For this regulation, "available" means the property is within the non-potable service area and is required to connect to the non-potable water system, per the regulations in Chapter 4.03.

Section 2. New Section. Beaverton Code Chapter 4.03, Non-potable Water Service Regulations, is added to read as follows:

**Chapter 4.03
NON-POTABLE WATER SERVICE REGULATIONS**

4.03.010 Short Title.

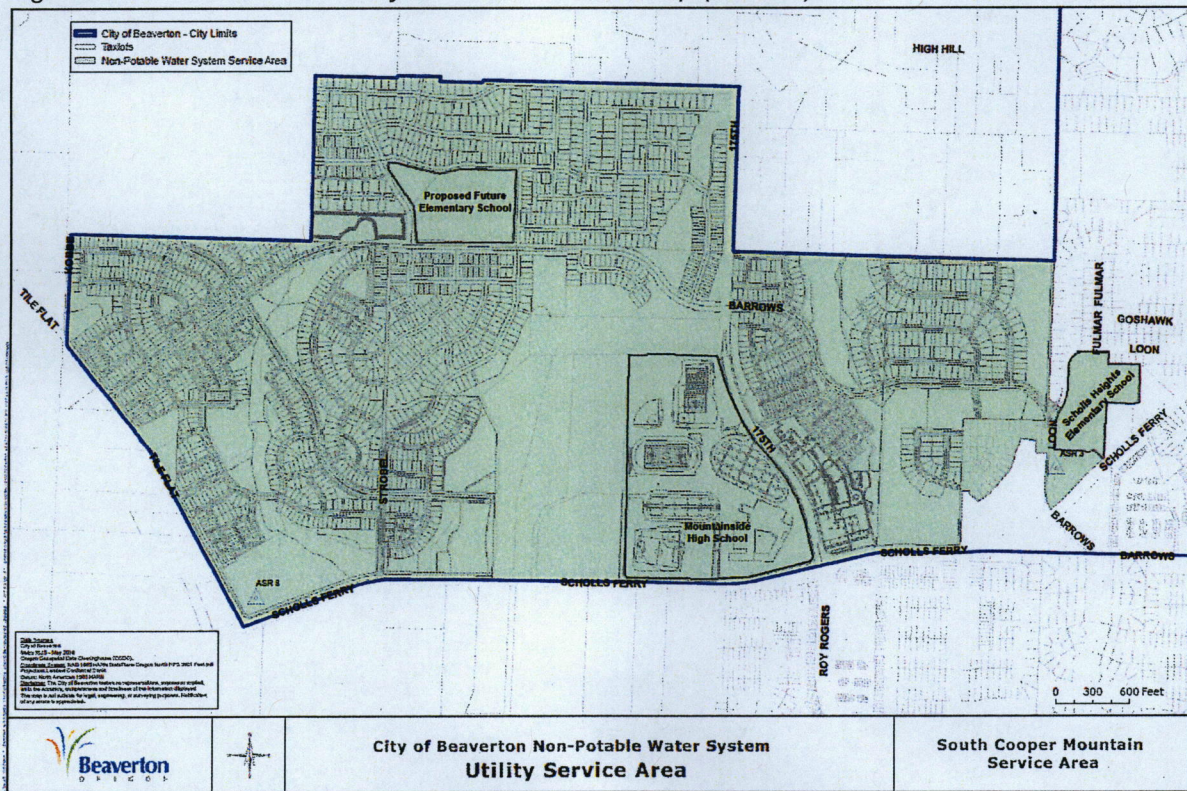
BC 4.03.010 through 4.03.130 may be referred to as the “Non-Potable Water Service Regulations” or “these regulations.”

4.03.015 Definitions.

As used in this code, unless the context requires otherwise, the following mean:

- **Non-Potable water.** Water that is: collected from alternative sources that are not part of the City’s potable water system, treated as required by state and federal regulations, and distributed for non-drinking water uses. It is not stormwater, sanitary sewer, or potable water.
- **Non-Potable Water System.** The system of facilities necessary for providing non-potable water, including but not limited to all collection, treatment, storage, and distribution facilities.
- **Service Area.** All properties and developments that are within the boundaries shown on Figure 1.

Figure 1. Non-Potable Water System Service Area Map (DRAFT).



4.03.020 Applicability.

The provisions of this Chapter apply to properties and development within the Service Area.

4.03.022 City Authority to Permit Non-Potable Water System Connections

The City, in its sole discretion, may permit or deny any proposed connection to the Non-Potable Water System, consistent with these regulations.

4.03.025 Connection to Non-Potable Water System Required; Violation.

A. The owner of any property within the Service Area is required to connect the property to the non-potable water system, when:

1. Development is proposed that requires a site development permit or building permit; and,
2. The property is within 50 feet of a street, alley, or easement where the Non-Potable Water System is located.

B. Any owner of property within the City who fails to connect to the Non-Potable Water System as required by subsection A will be deemed to have committed a Class 1 Civil Infraction. The infraction will be processed in accordance with the procedures set forth in BC 2.10.010 through 2.10.050. A separate infraction will be deemed to occur each month the infraction continues to exist, and a separate penalty may be imposed for each infraction.

C. In addition to the penalty imposed under BC 2.10.010 through 2.10.050, failure to connect to the Non-Potable Water System as required by subsection A will be deemed a public nuisance and may be abated by any of the procedures set forth in the Nuisance Ordinance.

4.03.030 Non-Potable Facilities Connection Permit Required; Application for Permit.

No person will connect or use any connection to the Non-Potable Water System without first obtaining a permit from the City to do so.

A person must apply for a permit to connect to the Non-Potable Water System and pay all applicable permit, inspection and connection fees required by the City. The City Council will establish all Non-Potable Water System fees required by these regulations by resolution.

4.03.035 Issuance of Permit.

A valid Non-Potable Water System connection permit entitles the permit holder to connect the property, building or facility to the Non-Potable Water System.

4.03.040 Failure to Obtain Permit Deemed Violation of this Ordinance.

A. No person will:

1. Connect to the City Non-Potable Water System without first paying all applicable fees and charges and obtaining a written permit from the City to do so in accordance with BC 4.03.030; or,
2. Install connections for improper uses of the non-potable water. Improper uses are those that are not authorized in BC 4.03.070.

B. A violation of subsections A.1 or A.2 is a Class 1 Civil Infraction to be processed in accordance with the procedures set forth in BC 2.10.010 through 2.10.050. Each month that a violation exists constitutes a separate violation.

4.03.045 Permit Exemptions.

A. Properties and development required to connect to the Non-Potable Water System, may be exempted if they meet one or more of the following criteria:

1. Physical constraints/feasibility. The City Engineer determines that:
 - a. A physical obstacle, such as topography or natural feature, exists and prevents the full implementation of the connection requirements of BDC 4.03.025; or
 - b. The location of existing structural improvements prevents the full implementation of the connection requirements of BDC 4.03.025; or
2. If the proposed connection poses a public health risk.

B. In addition to the provisions for permit exemptions provided in BC 4.03.045.A, the City Council, in its sole discretion, by resolution may revoke any and all exemptions and permits granted under this section if it finds that the public interest so requires. In the event that a permit granted under this section is revoked for any reason, no person will be eligible to apply for or receive another such permit for the same property.

C. The City Engineer and City Council have authority to grant exemptions to the requirements of this Chapter.

4.03.050 Ownership, Damage and Recording of Meters.

A. All meters are the property of the City, and any repairs to meters will be made by the City. If a meter is damaged by carelessness or negligence of the occupant or owner of the property, the City will repair the meter, and the cost of the repairs will be charged to the owner and against the property.

B. When a meter fails to register accurately, the charge will either be based on the average quantity of non-potable water use, as recorded by the meter when in order, or if there is no average consumption, then the minimum rates of the City will apply. If freezing or other inclement weather makes reading of the meter impracticable, the minimum charge will be made for those months during which the conditions exist. Estimated readings for other just conditions affecting the reading of a meter will be made only on approval of the City Engineer.

4.03.055 Installation of Services from Main to Property; Connection Permit and Payment of Fees Required.

The installation of all domestic service connections will include:

1. Constructing a city-approved meter box;
2. Purchasing and installing the meter; and
3. Connecting from the Non-Potable Water System main to:
 - a. The nearest property line,

b. The street side of the sidewalk, or

c. Another location appropriate under the particular circumstances, to be determined by the City.

4.03.060 Installation of Service Pipes: Service Size Requirement.

Non-Potable Water System service lines connecting the property and land uses to the non-potable water meter will conform to specifications established by the City Engineer in the Engineering Design Manual and Standard Drawings.

4.03.065 Separate Service to Each House or Property.

After a person pays the fees required by BC 4.03.030, the City will install the non-potable water meter and the service pipe from the Non-Potable Water System main to each house or property being supplied with non-potable water. The City may require the owner of a subdivided property to install non-potable meter boxes and non-potable water service to City-approved standards from the Non-Potable Water System main line to each property or structure being supplied with potable water in the subdivision. The Non-Potable Water System will be publicly owned. The connection fees required of the developer under BC 4.03.030 of this code will be adjusted to reflect the reasonable value of the installation to the City.

4.03.070 Non-Potable Water Uses.

A. The use of non-potable water provided by the City through the Non-Potable Water System is limited to the following uses:

1. Irrigation via an underground system, including irrigation of landscaping and edible plants;
2. Groundwater recharge, streamflow augmentation, and water for approved stormwater facilities; and
3. Other uses approved by the City Engineer that are consistent with these regulations.

B. All connections to the Non-Potable Water System must be outdoor hook-ups. Internal connections to a building or structure are not permitted.

4.03.075 Signage.

A. All Non-Potable Water System facilities, service lines, valves, and other appurtenances will be colored purple and labeled "CAUTION: NON-POTABLE WATER - DO NOT DRINK."

B. In a fenced pump station area, at least one sign that states "CAUTION: NON-POTABLE WATER - DO NOT DRINK" will be posted on the fence, which can be readily seen by all operations personnel utilizing the facility.

4.03.080 Water Quality

A. The City is responsible for providing non-potable water and will establish water quality standards, which will comply with applicable state and federal regulations.

B. The City is not responsible for a person's improper use in violation of BC 4.03.070 or improper labeling of Non-Potable Water System components in violation of BC 4.03.075.

4.03.085 Repair and Protection of Non-Potable Water Pipes; Private Responsibility.

A. The City reserves the right at any time, without notice, to temporarily shut off the non-potable water supply for repairs, extensions, or in emergency situations. The City will not be responsible for any damage to property or persons, such as the breaking of pipes or fixtures, or loss of income or any other consequential damage resulting from shut-off or discontinuance of service.

B. All pipes from the meter to the property must be: 1) installed in a good and workmanlike manner in accordance with the Engineering Design Manual and Standard Drawings by the property owner or customer, and 2) maintained in good order by the property owner or customer.

C. The property owner or customer will be held responsible for loss or damage occurring from the meter to and including the property, resulting from leaks, freezing, or otherwise. Each property owner or customer is required to take all precautions to protect the pipes from the meter to the property from damage due to freezing, traffic, malicious tampering, or otherwise. Damage resulting because the property owner or customer failed to take adequate precautions will be the financial responsibility of the property owner or customer.

4.03.090 Temporary Disconnection.

Any property owner or customer who wishes to discontinue the use of non-potable water supplied to the property must file a written request for shutoff with the City. The non-potable water will then be turned off and a bill rendered for non-potable water consumed to the date service was discontinued. Service may be resumed after a property owner or customer: 1) submits a written request to resume service, and 2) provides payment for non-potable water bills and fees that are owed. There will be no charge for shutting off or resuming service.

4.03.095 Jurisdiction, Maintenance and Repair of Service Connections.

A. City Jurisdiction and Responsibilities. All mains, laterals, service connections and other parts of the Non-Potable Water System are under the exclusive control of the City. The City will maintain these City-owned facilities in good operating condition and will make necessary inspections, repairs and replacements of meters and other parts of the service connection at the City's expense.

B. Interference Prohibited. No person other than City personnel will be permitted to:

1. Install, remove, alter or tamper with a meter or service connection, or;
2. Interfere in any manner with a main, service pipe, meter or any other part of the Non-Potable Water System; or
3. Turn the non-potable water on or off at the meter.

4.03.100 Access to Properties for Inspection.

A. Employees of the City may request permission to enter private property to inspect: the condition of the pipes from the meter to properties; related fixtures and appurtenances; and use of the non-potable water.

B. If access to the property is refused, the City employee will not inspect the property until the employee obtains an administrative search warrant for inspection of the property pursuant to BC 2.04.102.

4.03.105 Systems Development Charge.

Systems development charges for non-potable water will be paid as required by the code.

4.03.110 Billing, Payment, and Termination.

The provisions of BC 4.02.020, BC 4.02.115 through 4.02.155, BC 4.02.180, and BC 4.02.185 apply to the billing, collection, payment, and termination for non-potable water service.

4.03.115 Application for Connection or Discontinuance of Non-Potable Water Service.

Applications for permits to connect properties with the Non-Potable Water System, or requests to turn non-potable water on or off at any property already served by the Non-Potable Water System, will in all cases be made in writing and signed by the property owner or agent of the property owner subject to the request. Applicants must agree to conform to the provisions of this code and all regulations concerning the use of non-potable water.

4.03.120 Non-Potable Water Charges to Properties.

All fees and charges for furnishing non-potable water to properties within and outside the City Non-Potable Water System will be billed to the property where the non-potable water is supplied unless otherwise requested in writing by the property owner and agreed to by the City.

4.03.125 Properties Without Piped-in Non-Potable water.

Non-potable water service fees and charges will only be made to a property that is connected to the Non-Potable Water System.

4.03.130 Implementation Exemption. In addition to the exemptions provided in BC 4.03.045, after adoption of this Ordinance and during the implementation phase of the Non-potable Water Service Regulations, properties and development that would be required to connect to the Non-Potable Water System may be exempted from the Non-potable Service Regulations by the City Engineer if the owner submitted an application for a site development permit for at least one phase of development and at least two revised applications, and the City completed at least three reviews of the site development permit application before February 1, 2020.

A property that receives a site development permit that is exempted from the Non-potable Service Regulations due to this implementation exemption is also exempt from the Non-potable Water System Regulations for any building permit that is obtained within 7 years of adoption of this Ordinance.

Section 3. Severability. The sections and subsections of this ordinance are severable. If any part of this ordinance is held unconstitutional or otherwise invalid by a court of competent jurisdiction, the remaining parts shall remain in full force and effect unless:

- A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or
- B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

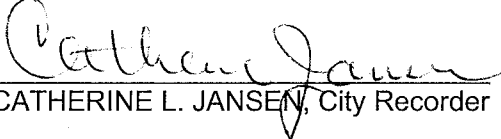
Section 4. Emergency. This ordinance being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist, and this ordinance takes effect on its passage.

First reading this 3rd day of March, 2020.

Second reading and passage by this Council this 8th day of September, 2020.

Approved by the Mayor this 9th day of September, 2020.

ATTEST:



CATHERINE L. JANSEN, City Recorder

APPROVED:



DENNY DOYLE, Mayor

AMENDMENT OF ORDINANCE BETWEEN FIRST READING AND SECOND READING

[To be read prior to second reading of the ordinance]

Council President: I move that Ordinance 4781 embodied in Agenda Bill 20235 be amended as will be read by the City Attorney.

City Attorney:

The amendments to Ordinance 4781, AN ORDINANCE AMENDING BEAVERTON CODE (BC) CHAPTER 4.02, WATER SERVICE REGULATIONS; ADDING BC CHAPTER 4.03, NON-POTABLE WATER SERVICE REGULATIONS, RELATING TO THE CREATION AND ADMINISTRATION OF A NONPOTABLE WATER UTILITY; AND DECLARING AN EMERGENCY, include the following:

First: The Whereas clauses have been replaced with the following whereas clauses:

Whereas, drinking water is a scarce resource; and

Whereas, access to safe drinking water is essential to human health; and

Whereas, according to the Oregon Health Authority, “each person on Earth requires at least 20 to 50 liters of clean, safe water a day for drinking, cooking and simply keeping themselves clean;” and

Whereas, the Fourth Oregon Climate Assessment Report found that “Oregon continues to warm in all seasons,” with projected changes to precipitation patterns that result in more precipitation in the winter, less snowpack, and decreases in summer precipitation, the lower streamflows will present challenges to “junior water rights holders, hydroelectric power generation, and those not served by reservoir or groundwater storage;” and

Whereas, “[h]igher air temperatures, lower streamflows and decreases in rainfall are expected to raise summer stream temperatures, making it more difficult to meet water quality standards;” and

Whereas, the majority of the City’s drinking water source is dependent on the streamflow in the upper Tualatin River (supplemented by other sources during summer peak use) as opposed to reservoir or groundwater storage, making the City’s drinking water supply susceptible to climate change; and

Whereas, South Cooper Mountain is experiencing a surge in residential development that will increase the demand for safe drinking water; and

Whereas, the City anticipates the demand for safe drinking water to continue to increase with the addition of Urban Reserve Area 6B and continued development in the City; and

Whereas, non-potable water is a sustainable alternative that can be utilized for purposes, such as irrigation, to offset the demand on the City’s drinking water supply

and preserve scarce drinking water during peak summer consumption that is necessary for human health; and

Whereas, Oregon Water Resources Department (OWRD) works in consultation with Oregon Department of Environmental Quality and Oregon Health Authority to protect groundwater resources and to safeguard public health; and

Whereas, the Oregon Health Authority and its subdivision, Oregon Drinking Water Services (“DWS”), work to keep drinking water safe for Oregonians; and

Whereas, the non-potable water system is being designed to treat stormwater to meet water quality standards before injecting the water into an aquifer storage and recovery well, as required under a permitting process administered by OWRD, with the purpose of ensuring the safety of the non-potable water system; and

Whereas, the City’s intent is to have the non-potable water system capture urban stormwater (often causing downstream erosion and carrying pollutants), treat, and store stormwater for peak summer non-drinking water purposes to preserve safe drinking water for activities essential for human health; and

Whereas, the City’s intent is to use the non-potable water system to capture urban stormwater, treat, and store stormwater to use as a mechanism to decrease environmental harm by returning water to streams in the summer; and

Whereas, the City’s existing utility regulations do not adequately protect the City’s drinking water supply from being depleted for water uses that can be met with non-potable water; and

Whereas, regulatory management of the City’s drinking water supply is determined to be necessary for the public health and safety of Beaverton residents; and

Whereas, the City is committed to providing infrastructure and implementing regulations to protect the City’s scarce drinking water supply; and

Whereas, the City holds the public health, safety, and welfare, as well as physical assets such as its utility systems and resources, such as safe drinking water, in trust for all its residents; and

Whereas, the City has a fiduciary responsibility to assure that any use of City resources, especially its drinking water supply, benefits all its residents.

Second: Section 4.03.010, Short Title, will read “BC 4.03.010 through 4.03.130 may be referred to as the ‘Non-Potable Water Service Regulations’ or ‘these regulations.’”

Third: Section 4.03.130, Implementation Exemption will be added to read as follows:

In addition to the exemptions provided in BC 4.03.045, after adoption of this Ordinance and during the implementation phase of the Non-potable Water Service Regulations, properties and development that would be required to connect to the Non-Potable Water System may be exempted from the Non-potable Service Regulations by the City Engineer if the owner submitted an application for a site development permit for at least one phase of development and at least two revised applications, and the City completed at least three reviews of the site development permit application before February 1, 2020.

A property that receives a site development permit that is exempted from the Non-potable Service Regulations due to this implementation exemption is also exempt from the Non-potable Water System Regulations for any building permit that is obtained within 7 years of adoption of this Ordinance.

Mayor: Is there a second to the motion to amend the ordinance?

Councilor: I second the motion.

Mayor: Any discussion?

(Discussion, if any)

Mayor: If no further discussion, we'll now vote on the motion to amend the proposed ordinance. All in favor, say aye. All opposed, say nay.

Mayor: The ayes/nayes have it.

If the motion carries:

Mayor: The proposed ordinance has been amended between first and second reading. As required by the City Charter, the City Attorney read aloud the title and each section that has been changed in full.

Is there a motion regarding Ordinance 4781 as amended?

Council 1: I move that the ordinance as amended and embodied in Agenda Bill 20235 be adopted.

Other Councilor: Second.

Mayor: Any discussion?

[Discussion, if any.]

Mayor: Will the City recorder now please call the roll.

[City Recorder conducts roll call vote.]

If the motion does not carry:

Mayor: Is there any other motion regarding Ordinance 4781?

Council 1: I move that the Ordinance 4781 now pass as presented at first reading without amendments.

Other Councilor: Second.

Mayor: Any discussion?

[Discussion (if any).]

Mayor: Will the City recorder now please call the roll.

[City Recorder conducts roll call vote.]