

ORDINANCE 1688

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, RELATING TO NORTH BEND MUNICIPAL CODE TITLE 14, THE CITY'S ENVIRONMENTAL PROTECTION; REPEALING AND REPLACING NBMC CHAPTER 14.05, CRITICAL AREAS – ADMINISTRATION, GENERAL PROVISIONS AND DEFINITIONS; REPEALING AND REPLACING NBMC CHAPTER 14.06, RELATING TO WETLAND CRITICAL AREAS; AMENDING NBMC CHAPTER 14.07, RELATED TO CRITICAL AQUIFIER RECHARGE AREAS; REPEALING NBMC CHAPTER 14.08, RELATING TO STREAMS; REPEALING AND REPLACING NBMC CHAPTER 14.09 RELATING TO STREAMS AND OTHER FISH AND WILDLIFE HABITAT AREAS; REPEALING NBMC SECTIONS 14.11.080 AND 14.11.090 RELATING TO GEOLOGICALLY HAZARDOUS AREAS, ADOPTING A NEW NBMC SECTION 14.16.075 RELATING TO STORMWATER MANAGEMENT FOR TYPE C DRAINAGE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of North Bend (“City”) is required, pursuant to RCW 36.70A.130(4), to review and update its Critical Areas Ordinance (CAO) to ensure compliance with the State’s Growth Management Act (GMA) requirements for Best Available Science (BAS), and to maintain consistency with the 2015 Comprehensive Plan; and

WHEREAS, the CAO codified under North Bend Municipal Code (NBMC) Title 14 was last updated in 2006; and

WHEREAS, the CAO update effort is being completed along with the required periodic update to the City’s Shoreline Master Program (SMP), consistent with the Shoreline Management Act guidelines and a grant provided by the Department of Ecology (DOE); and

WHEREAS, the City hired Environmental Science Associates to support the update in part through a BAS Consistency Review Memo and Gap Analysis; and

WHEREAS, the City’s Planning Commission reviewed the proposed amendments on August 9, 2018, August 23, 2018, September 13, 2018, and October 11, 2018; and

WHEREAS, the Planning Commission held a Public Hearing on August 23, 2018, and received two comment letters and one verbal comment related to one of the comment letters; and

WHEREAS, the proposed amendments were submitted to the Washington State Department of Commerce for review on October 22, 2018, and the Type C amendments were submitted to the Washington State Department of Commerce for review on November 18, 2018; and

WHEREAS, a SEPA Determination of Non-Significance was issued for the proposed amendments on July 20, 2018; and

WHEREAS, the Planning Commission recommended approval of the proposed amendments on October 11, 2018, as detailed in its findings, conclusions, and recommendations; and

WHEREAS, the DOE provided comments to City staff on November 30, 2018, and accepted staff’s response and proposed edits on December 20, 2018; and

WHEREAS, the Community and Economic Development Committee reviewed the proposed amendments at its October 16, 2018, November 20, 2018, and December 18, 2018, meetings; and

WHEREAS, the City has revised the Map Series associated with these amendments and current information (i.e., delineated wetlands, consolidation of the streams and fish and wildlife habitat areas, and city limits) and the Planning Commission held an additional hearing for these Maps which are also contained in the Critical Areas Element of the City’s Comprehensive Plan on April 25, 2019; and

WHEREAS, the City Council finds that the proposed amendments are consistent with the requirements of the GMA, and the periodic update required by RCW 36.70A.130(5) is complete;

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

Section 1. NBMC Chapter 14.05 (Critical Areas - Administration, General Provisions and Definitions), Repeal and Replace: North Bend Municipal Code Chapter 14.05 (Critical Areas – Administration, General Provisions and Definitions) is hereby repealed in its entirety and replaced with a new Chapter 14.05 to read as set forth in Exhibit A attached hereto.

Section 2. NBMC Chapter 14.06 (Wetland Critical Areas), Repeal and Replace: North Bend Municipal Code Chapter 14.06 (Wetland Critical Areas) is hereby repealed in its entirety and replaced with a new Chapter 14.06 to read as set forth in Exhibit B attached hereto.

Section 3. NBMC Chapter 14.07 (Critical Aquifer Recharge Areas), Amendments: The following sections of North Bend Municipal Code Chapter 14.07 (Critical Aquifer Recharge Areas) are hereby amended to read as set forth in Exhibit C attached hereto: NBMC 14.07.020 (Designation); 14.07.030 (Prohibited uses and activities); and 14.07.040 (Performance standards).

Section 4. NBMC Chapter 14.08, Repealer: North Bend Municipal Code Chapter 14.08 (Streams) is hereby repealed in its entirety.

Section 5. NBMC Chapter 14.09 (Fish and Wildlife Habitat Conservation Areas), Repeal and Replace: North Bend Municipal Code Chapter 14.09 (Fish and Wildlife Habitat Conservation Areas) is hereby repealed in its entirety and replaced with a New Chapter 14.09 to be titled “Streams and Other Fish and Wildlife Habitat Areas” and amended to read as set forth in Exhibit D attached hereto.

Section 6. NBMC Section 14.11.080, Repealer: North Bend Municipal Code Section 14.11.080 (Native growth protection easement/critical area tract) is hereby repealed in its entirety.

Section 7. NBMC Section 14.11.090, Repealer: North Bend Municipal Code Section 14.11.090 (Critical area tract) is hereby repealed in its entirety.

Section 8. New NBMC Section 14.16.075 Adopted: A new North Bend Municipal Code Section 14.16.075 is hereby adopted to read as follows:

14.16.075 Type C - conveyance.

A. Type C waters are those natural open ephemeral drainage courses (including where bridged, piped or culverted) that are not Type S, F, Np or Ns waters, which contain flow only during or immediately after periods of precipitation, and which flow generally less than 30 days per year.

B. Type C waters are regulated for the values they provide for conveyance, infiltration, water quality treatment, and flow attenuation of surface waters. It is encouraged that Type C waters be maintained in their existing natural channels to provide these functions. However, subject to conformance to all floodplain management regulations, such channel courses may be altered, piped or realigned, so long as sufficient mitigation is provided that maintains:

1. One-hundred-year conveyance capacity;
2. Infiltration capacity equivalent to that provided by the original channel either within the altered, piped, or realigned system or together with other infiltration accomplished elsewhere on the site; and
3. Comparable water quality treatment per the King County Surface Water Design Manual (as now in effect or subsequently amended) either within the altered, piped or realigned system or together with other above ground water quality measures provided for the on-site development that are accomplished elsewhere on the site.

Section 9. 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 10. 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 21ST DAY OF MAY, 2019.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Kenneth G. Hearing, Mayor

Eileen M. Keiffer, City Attorney

ATTEST/AUTHENTICATED:

Published: May 31, 2019
Effective: June 5, 2019

Susie Oppedal, City Clerk