

**ORDINANCE NO. 497**

**AN ORDINANCE EXTENDING A MORATORIUM ON DEVELOPMENT THROUGHOUT THE CITY OF WILSONVILLE DUE TO A LACK OF WATER SYSTEM CAPACITY, ALLOWING FOR TENTATIVE LAND USE APPROVALS IN ADVANCE OF THE END OF THE MORATORIUM; AND DECLARING AN EMERGENCY.**

WHEREAS, the City of Wilsonville is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Plan; and

WHEREAS, the City's acknowledged Comprehensive Plan is intended to ensure that the rate of community growth and development does not exceed the community's ability to provide essential public services and facilities, including adequate water for domestic, irrigation, and fire-fighting purposes. The City's acknowledged Comprehensive Plan further provides that a continued source of water will be available to meet the City's growing needs into the future, but the City's acknowledged Comprehensive Plan is silent as to how the City is to provide water service without an adequate source of water; and

WHEREAS, the City's acknowledged Comprehensive Plan policies also commit the City to provide water service that keeps pace with development; and

WHEREAS, the City found that there is a demonstrated need to prevent a shortage of water for domestic and fire flow usage which would occur during the period of the proposed moratorium commencing January 5, 1998, and did declare a moratorium on land development approvals on that date (Ordinance No. 493); and

WHEREAS, the circumstances leading to the findings of demonstrated need included in Ordinance No. 493 continue and those findings convey the severity of the water shortage situation faced by the City; and

WHEREAS, the City finds that the Findings and Determinations of Ordinance No. 493 are still relevant and material, are hereby adopted, and that Ordinance No. 493 should be extended in its entirety, save and except for the additions and modifications contained herein; and

WHEREAS, on March 2, 1998, the Wilsonville City Council approved the program to correct the moratorium (Resolution No. 1441), as required by ORS 197.530; and

WHEREAS, both the enacted moratorium ordinance and the approved program to correct the problem leading to the moratorium were appealed to the State Land Use Board of Appeals by the Home Builders Association of Metropolitan Portland (HBA). Meetings with representatives of the HBA have indicated that those appeals can be settled without further legal action if the City is willing to process land development applications, short of final approvals for construction, during the period of the moratorium; and

WHEREAS, the City finds that it can process and tentatively approve land development applications without causing an increase in water consumption during the moratorium, if final approval for construction is conditionally withheld. Under City code, when a land development application has been conditionally approved, developers are required to sign a statement in which they agree to meet all conditions of approval. To aid in avoiding any misunderstanding on the part of a development applicant under this moratorium ordinance, this ordinance imposes the additional requirement that developers sign a statement in advance of having their applications processed, stating that they understand that water will not be allocated until the City's

Community Development Director has determined that a long-term water source has been planned and funded and an adequate interim supply is available to allow construction to proceed; and

WHEREAS, the City finds that allowing developers to seek and receive approvals contingent upon the future availability of water will create a logical queuing order for developments as water becomes available; and

WHEREAS, the City Council makes the following additional findings, as required by ORS 197.530(2):

(a) The problem giving rise to the moratorium still exists. The City continues to experience falling water levels and declining water quality in the wells that supply all of the City's water. Exhibit "A," incorporated by reference herein, describes the declining status of the City's water system.

(b) Reasonable progress is being made to alleviate the problem. While the City's study of three alternative sources of water (i.e., the City of Portland, the Willamette River in Wilsonville, and the Troutdale Aquifer south of Wilsonville) is not yet complete, it is nearing completion. The City is using its best efforts to be in a position to seek voter approval of funding for the selected option by the November, 1998, general election, and if reasonable and practical, by the September, 1998, special election. At the same time, the City continues to obtain information concerning methodologies and risks of the potential for aquifer storage and recovery (ASR). Implementation of water conservation efforts continues. The City continues to conduct regular public meetings to inform interested parties of the progress that is being made on the three alternative water sources and on other actions taken by the City relative to the moratorium and water supplies.

Exhibit "B," incorporated by reference herein, describes the status of the City's efforts to secure a new water source. The memorandum dated June 9, 1998, from Eldon Johansen regarding Water Moratorium, labeled as Exhibit "C" and incorporated by reference herein, is a list of activities and timelines necessary to address the water moratorium.

(c) A specific date has been set for the duration of the moratorium. It will expire on January 6, 1999, unless subsequently extended by City Council action, in conformance with State law.

WHEREAS, pursuant to ORS 197.530(4), the City has provided written notice to the Department of Land Conservation and Development more than 14 days prior to the final public hearing on this ordinance; and

WHEREAS, pursuant to ORS 197.530(2), the City has made written findings justifying the need to extend the moratorium; and

WHEREAS, a duly noticed public hearing was conducted before the City's Planning Commission on June 10, 1998, after which the Planning Commission adopted Resolution 98PC02, recommending that the City Council extend the moratorium as provided in this ordinance; and

WHEREAS, pursuant to ORS 197.530(2), on June 15, 1998, the City Council held a duly noticed public hearing on extending the moratorium based on the lack of water capacity to serve new development and the findings which support the moratorium.

WHEREAS, the City Council intends the following definitions shall apply:

(1) Adequate, interim water supply means the supply of water available that would meet current water customers' needs and the water customer's needs of a projected, overall growth rate of 5% per annum to occur

until the year 2005 with projected water conservation increasing from 8% of maximum day consumption to 13% by the year 2005.

(2) Long-term water supply means the supply of water available that would allow current water needs and water needs of a projected overall annual growth rate of 5% per annum to occur through 2018, and 1% per annum thereafter through 2050 with projected water conservation from 13% of maximum day consumption in the year 2005 to 20% by 2018.

(3) Supply of water available means (a) for adequate, interim water supply, the city can serve the city's water customers at occupancy through 2005, and (b) for long-term supply the city has planned and funded a supply of water to come on line by 2005 to serve the city's water customers a occupancy through 2050.

NOW, THEREFORE, THE CITY OF WILSONVILLE ORDAINS AS FOLLOWS:

Section I: FINDINGS AND DETERMINATIONS

A. The City Council adopts the above recitals as findings and incorporates them by reference in support of this ordinance.

B. The Wilsonville City Council hereby determines that:

1. Ordinance No. 493 is hereby extended, save and except for the modifications and additions contained in this ordinance. The moratorium based upon lack of water capacity for new development is extended through January 5, 1999. The provisions of Ordinance No. 493 indicating which developments have received an allocation of water, and which are in queue awaiting an allocation, shall continue to apply. Those developments include Phase 3 of Teufel

Village (village at Main Street) to the extent that it was included as having Stage II approval in Exhibit C-2 of Ordinance No. 493, and an allocation of up to 93,000 gallons per day to allow for the build-out of Capital Realty's Town Center commercial area. Additional school development by the West Linn - Wilsonville School District shall be permitted, subject to the standards established in Ordinance No. 493. Except as otherwise set forth in this ordinance, approval of land use applications including, but not limited to, conditional use permits, partitions, subdivisions, variances, zone changes, and stage II planned development approvals shall only be granted upon the condition that the applicant acknowledge, as part of the application, that connection to the City's water system, and building permits requiring water service, will only be finally approved upon a determination by the City's Community Development Director that a long-term water source for the City has been planned and funded and an adequate interim water supply is available.

2. In the event an approved development forfeits its rights to water capacity, the first priority to such rights shall be given to the properties involved in LID #12, and to those other properties listed in Exhibit C-2 of Ordinance No. 493 as "Projects with planning approval subject to availability of water," by order of the date of their completed development application on file with the City, in order to accommodate to the greatest extent possible needed housing and economic development.

3. The review of land use applications may proceed based on the acknowledgment of the condition and being conditioned on the Community Development Director's determination as set forth in Paragraph B1 above, and the approval of tentative maps or plats for land partitions or subdivisions shall also be conditioned such that final plats shall only be approved for recordation upon a determination by the City's Community Development Director that a long-term water source for the City has been planned and funded and an adequate interim water supply is available.
4. Grading permits and public works permits shall only be issued upon a determination by the Community Development Director that adequate water will be available for dust control and other construction purposes. This may include water transported to the site from a source other than the City.
5. Applications for land use approvals may continue to be allowed to go forward to construction only where it is found by the City decision-makers, who are empowered by local ordinance to take action on development applications, that the development will not cause an increased demand for water service. Allowing developments which will not cause an increased demand for water to proceed is an additional accommodation to housing and economic needs.
6. Allocations of water capacity based upon development approval shall not be transferred from one site to another, except in cases where a public agency has acquired a developed site and reduced the need for water to serve that site. In such cases, the previous allocation can be transferred to another site as part of the development review process. The capacity allocated to existing

- developments may be allocated to replacement uses on the same site, provided that no increase in water demand results.
7. The Community Development Director is authorized to continue to determine the appropriate allocations of water to both existing and proposed developments.
  8. The Community Development Director and Public Works Director shall regularly report to the City Council on the effectiveness of water conservation efforts. In the event that the City's program to encourage water conservation proves to be more successful than anticipated, and the Community Development Director determines that such success warrants modification of the table shown as Exhibit A of Ordinance No. 493, the Community Development Director shall make the necessary changes and advise the City Council and the public accordingly.
  9. Community Development Staff shall continue to issue permits for water system connections only where authorized by the Community Development Director as being subject to a prior allocation of available water.
  10. The Development Review Board and City Planning staff are directed to continue to ensure that landscaping plans include drought-tolerant plant species or otherwise minimize the demand for irrigation water.
  11. Notwithstanding any other City requirements to the contrary, those developments that receive planning and zoning approvals and for which water is not yet available to be allocated, shall have the effective time of their development and zoning approvals tolled (i.e., continued) beyond their two-



year expiration for a time equal to the time period between the approval of the application and the end of the moratorium, including any extensions that may legally be granted.

12. In the event that the State of Oregon formally demands that the City provide water to a correctional facility, the City Attorney is authorized to file an action in Circuit Court, naming the State's Department of Corrections, and any parties whose property development rights to connect to City water would be jeopardized by the State's actions. Such action shall seek to have the Court determine who shall receive City water pending a resolution to the lack of capacity.

13. This moratorium shall expire immediately upon a long-term water source being planned and funded and an adequate interim water supply being available, on January 5, 1999, or is otherwise extended in accordance with state law.

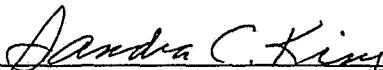
## Section II. VALIDITY and SEVERABILITY

The validity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other provision of this ordinance which can be given effect without reference to the invalid part or parts.

## Section III. EMERGENCY DECLARED

The matters contained herein concern the public health, welfare and safety. An emergency is hereby declared to exist, and this ordinance shall become effective on July 5, 1998.

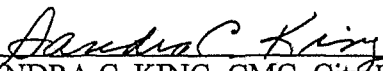
SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 15th day of June, 1998, and scheduled for second reading at a regular meeting thereof on the 15th day of June, 1998, commencing at the hour of 7:00 p.m. at the Community Development Hearings Room.

  
SANDRA C. KING, CMC, City Recorder

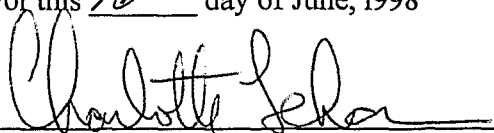
ENACTED by the Wilsonville City Council at a regular meeting thereof this 15th day of June, 1998, by the following votes:

YEAS: -5-

NAYS: -0-

  
SANDRA C. KING, CMC, City Recorder

DATED and signed by the Mayor this 16<sup>th</sup> day of June, 1998

  
CHARLOTTE LEHAN, Mayor

SUMMARY OF VOTES:

Mayor Lehan	<u>Yes</u>
Councilor Kirk	<u>Yes</u>
Councilor Luper	<u>Yes</u>
Councilor Helser	<u>Yes</u>
Councilor Barton	<u>Yes</u>



COMMUNITY DEVELOPMENT DEPARTMENT

**EXHIBIT A**

June 3, 1998

TO: Stephan Lashbrook, Planning Director  
FROM: Eldon Johansen, Community Development Director  
SUBJECT: Status of water system

The moratorium on planning approvals due to a water shortage was adopted by the City Council in January of this year (Ordinance No. 493). On March 2, 1998, the City Council adopted the program to correct the problem, as recommended by staff.

Included as an exhibit to Ordinance No. 493 was a chart titled "Water Assurance Check."\* We continue to monitor the operations of all of the wells in our system and to make improvements as we can. Unfortunately, the Water Assurance Check prepared for the City Council's action in January now appears to be overly optimistic. The overall status of the system continues to decline for two reasons.

First, the water level in the Canyon Creek well has dropped to the point where we must convert it to a submersible pump in an effort to increase production. There is no way of knowing how effective this will be until we have tried it. If we are not successful with that change, the capacity of that well may have to be deleted from our assumptions.

Second, we continue to receive numerous complaints about "brown water" from a number of our customers. Our efforts to address those problems could result in reduced production or significant costs for additional treatment.

As additional information becomes available it will be provided to the Planning Commission, City Council, and the general public. Given the two problems noted above, we must assume that Wilsonville's water situation is somewhat worse than we believed it to be in January.

\*Water Assurance Check chart attached to this memo



<b>WATER ASSURANCE CHECK</b>			
	<b>Supply</b>		
	1/7/98 January 1997 Report	October 1997 Status	Jan 1998 Status
Production with new well	5.55 MGD	5.38 MGD	5.49 MGD
Use of reservoir to meet maximum day requirement	0.20 MGD	0.20 MGD	0.20 MGD
Continued voluntary reduction of max day demand by the top 10 irrigation users	0.41 MGD	0.41 MGD	0.41 MGD
Mandatory curtailment of irrigation to 2/3 of normal use	0.78 MGD	0.78 MGD	0.78 MGD
Reduction in "unaccounted for" water that has previously been identified	0.13 MGD	0.13 MGD	0.13 MGD
20% of new reservoir capacity Source to be identified	0 MGD	0.40 MGD	0.40 MGD
<b>Total</b>	<b>7.07 MGD</b>	<b>7.30 MGD</b>	<b>7.50 MGD</b>
	<b>Demand</b>		
	January 1997 Report	October 1997 Status	Jan 1998 Status
Unconstrained maximum day consumption - Summer 1996	5.66 MGD	5.66 MGD	5.66 MGD
Approvals not included in summer 1996 consumption	1.36 MGD	1.61 MGD	1.84 MGD
<b>Total</b>	<b>6.99 MGD</b>	<b>7.27 MGD</b>	<b>7.50 MGD</b>
<b>Available for future projects</b>	<b>0.08 MGD</b>	<b>0.03 MGD</b>	<b>0.0 MGD</b>

**MEMORANDUM**

**DATE:** JUNE 3, 1998

**TO:** STEPHAN LASHBROOK,  
PLANNING DIRECTOR

**FROM:** JEFF BAUMAN,  
PUBLIC WORKS DIRECTOR

**RE:** WATER SUPPLY PLANNING (UPDATE)

**EXHIBIT B**

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This memo summarizes the progress that has occurred since January 5, 1998, when the City Council adopted a moratorium on processing applications for new development.

In a memo dated February 23, 1998, I reviewed the range of options for meeting long-term water supply needs of the City. Based on that memo and supporting information, the City Council narrowed the focus of the alternatives analysis. Conservation along with aquifer storage and recovery (ASR) were identified as potentially viable methods to significantly reduce peak season demand. But conservation and ASR alone will not be enough to fully address the future water needs of the City. The following three options were selected by the City Council for further evaluation as the most promising alternatives for long-term water supply:

**Troutdale Aquifer**

In March, 1998, the consulting engineering firm of CH2M HILL was hired by the City to determine the feasibility of using this groundwater resource for municipal water supply. In May, 1998, the consultant submitted it's report on the results of this study.

**Bull Run Supply**

The City of Portland has conducted an analysis of three scenarios by which water supply from the Bull Run watershed could be expanded to meet the future needs of the entire metropolitan region - - including Wilsonville. The preliminary results of this analysis were released in May, 1998.

**Willamette River**

The consulting firm of Montgomery Watson was hired by the City to evaluate the feasibility of using the Willamette River for municipal water supply. Last year (March, 1997) Montgomery Watson submitted it's report on the results of this study. Since that time, City staff and Montgomery Watson personnel have worked with nearby water providers to further evaluate potential sites and partnership opportunities for a "sub-regional" water purification plant.



June 3, 1998  
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Since January 5th, there has also been extensive public information and public discussion regarding these options for future water supply. Community meetings and panel discussions were held in March, April, and May. In addition, I gave presentations to each of the City's Boards and Commissions. Numerous articles have appeared in the Spokesman, the "Boones Ferry Messenger", the "Seedling", the Oregonian, and utility bill inserts. Additional outreach has occurred with the Chamber of Commerce, the Charbonneau Country Club, the Senior Center, the Library, and direct communication with residents and interest groups. The results of the Troutdale and Bull Run evaluations were presented to the City Council on June 1st. At the Council's June 15th meeting, the Willamette evaluation will be presented. The June 15th meeting will also be the beginning of a formal public hearing regarding the options for future water supply. The public hearing will be continued on June 29th.



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REVISED

**COMMUNITY DEVELOPMENT  
 DEPARTMENT**

**DATE:** JUNE 9, 1998  
**TO:** ✓ ARLENE LOBLE, CITY MANAGER  
**FROM:** ELDON JOHANSEN, COMMUNITY DEVELOPMENT DIRECTOR  
**SUBJECT:** WATER MORATORIUM

On January 5, 1998, Council approved a moratorium on planning approvals for land development throughout the City of Wilsonville due to a lack of water system capacity. The moratorium did not apply to projects with previous planning approval, nor did it apply to projects which would not increase the demand for water.

On March 2, 1998, Council adopted a program to correct the problem creating the moratorium on planning approvals for land development throughout the City of Wilsonville due to a lack of water system capacity. The program included a detailed evaluation of obtaining water from first; the Troutdale Aquifer, second; from the City of Portland, and third; from a water treatment plant on the Willamette River. Staff was directed to report back to City Council with the recommendations no later than June 29, 1998. The following table provides a brief list of activities and timelines necessary to address the proposed the water moratorium. The schedule has been, and will continue to be revised as more information becomes available.

Schedule to Solve Water Moratorium			
Activity	Responsibility	Proposed Timeline	Actual Completion Date
Solicit proposals to evaluate Troutdale aquifer for viability as a long term water source	Eldon	2/6/98	2/6/98
Notice to DLCD of Public Hearing	Stephan	2/13/98	2/13/98
Public notice of Public Hearing on 3/2/98	Stephan	2/17/98	2/17/98
Complete Draft Program for staff review	Eldon, Jeff & Stephan	2/18/98	2/18/98
Complete program for distribution to public	Stephan	2/23/98	2/23/98
Review proposals to evaluate Troutdale aquifer, select proposed consultant, negotiate scope of work and price	Jeff/ Mike S	2/26/98	2/26/98
Approve consultant agreement or delegate approval to PW Dir to evaluate Troutdale aquifer	Council	3/2/98	3/2/98
Approve program to solve moratorium	Council	3/2/98	3/2/98

Conduct Public Hearing	Council	3/2/98	3/2/98
Final date for submission of alternative sources as a consideration for current program to end moratorium	Council	3/2/98	3/2/98
Develop public information program & schedule	Dave	3/9/98	3/9/98
Community water meeting at Charbonneau Country Club	Dave	3/12/98	3/12/98
Community water meeting at Community Center	Dave	4/15/98	4/15/98
Receive & distribute preliminary results of Troutdale aquifer study to staff	Jeff	5/8/98	5/8/98
Receive & distribute final draft of Troutdale aquifer study to staff & Council	Jeff	5/22/98	5/22/98
Prepare & distribute preliminary legal analysis of municipal use of Troutdale aquifer & Willamette River	Michael K/ Joan	5/25/98	5/22/98
Check validity of projections in annual growth in water requirements and projections of required added water	Eldon	5/28/98	5/29/98
Community water meeting at Charbonneau Country Club	Dave	5/28/98	5/28/98
Develop draft of ordinance extending water moratorium for staff review	Stephan	6/1/98	6/1/98
Presentation & discussion of information about long term water supply from Portland	Council	6/1/98	6/1/98
Presentation & discussion of Troutdale aquifer study	Council	6/1/98	6/1/98
Provide 14 days advance notice to DLCD of public hearing to discuss extension of water moratorium	Stephan	6/1/98	6/1/98
Public notice of Hearing on 6/15/98	Stephan	6/1/98	6/1/98
Public hearing for water rate increase	Eldon	6/1/98	6/1/98
Distribute draft ordinance extending the water moratorium to public	Stephan	6/8/98	6/3/98
Prepare & distribute final legal analysis of municipal use of Troutdale aquifer & Willamette River	Michael K/ Joan	6/8/98	
Finalize agreement with DOC subject to approval of alt site	Michael K	6/12/98	
Finalize agreement with Tigard & TVWD subject to approval of alt site	Arlene/ Mike S/ Michael K	6/12/98	
Presentation & discussion of information about long term water supply to all boards & commissions by	Jeff	6/15/98	5/15/98
Conduct public hearing to extend moratorium	Council	6/15/98	



Presentation & discussion of Willamette pilot plant study & preliminary plans for a proposed Willamette water treatment plant	Council	6/15/98	
Propose alternatives for analysis of rate & SDC impacts and discuss at a study session	Eldon/Jeff/ Arlene	6/15/98	
Adopt resolution increasing water utilities by 30% and initiating an inverted block rate structure for single family residences to encourage water conservation effective on effective date of SDC increase	Eldon	6/15/98	6/1/98
Public hearing for the 3 water options	Eldon	6/15/98	
Develop Budget Committee recommendation on long term water to Council	Eldon	6/18/98	
Coordinate with CH2M Hill & complete rate & SDC analysis of alternatives	Eldon	6/22/98	
Develop and coordinate proposed long range solution to water moratorium	Eldon/ Jeff/ Arlene	6/22/98	
Discussion, selection, & approval of long range water supply solution (Would a special mtg on the 29th be possible?)	Council	6/29/98	
Final public hearing on the 3 water options	Eldon	6/29/98	
Provide written notice of intent to modify water system development charges (45 days prior to first public hearing to adopt)	Eldon	7/2/98	
Further deliberations on the water sources	Council	7/6/98	
Develop resolution providing language to be used on November ballot	Michael K	7/13/98	
Distribute methodology and draft of ordinance adopting an increase in water systems development charges 30 days before first hearing to adopt the increase	Eldon	7/17/98	
Adopt language for November ballot	Council	8/17/98	
Adoption of an ordinance increasing water systems development charges to reflect increased cost of capital for water production	Council	8/17/98	
Notice of Public Hearing on extension/cancellation of moratorium to DLCD & public	Stephan	11/2/98	
November election on financing new water source	Citizens	11/3/98	
Council decision on extending or canceling moratorium	Council	11/16/98	
Determine estimated availability of long term source and review short term requirements and supply to insure that adequate short term water is available until long term water is available.	Eldon	11/16/98	

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Water Moratorium  
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Please contact the following staff if you have questions concerning this information;

Legal process - Mr. Michael Kohlhoff, city attorney

Planning process - Mr. Stephan Lashbrook, planning director

Evaluation of alternatives - Mr. Jeff Bauman, director of public works

Evaluation of water rates and systems development charges - Mr. Eldon Johansen, community development director

Sincerely,



Eldon R. Johansen  
Community Development Director

ERJ:bgs

cc: M. Kohlhoff, City Attorney  
J. Bauman, Public Works Director  
M. Stone, City Engineer  
S. Lashbrook, City Planner  
D. Kanner, Public Affairs Director/Ombudsman  
G. Wallis, Finance Director

somerville prison  
0512aj