

**ORDINANCE NO. 514**

**AN ORDINANCE ADOPTING A PUBLIC FACILITIES WATER STRATEGY FOR DEVELOPMENT IN THE CITY OF WILSONVILLE DUE TO THE LACK OF WATER CAPACITY THROUGHOUT THE CITY AND DECLARING AN EMERGENCY.**

WHEREAS, the City Council of the City of Wilsonville finds:

1. **Purpose.** The purpose of this ordinance is to provide for a public facilities water strategy in conformance with ORS 197.768. This strategy is intended to be limited to situations in which clear and objective standards demonstrate that:
  - A. There is a rapid increase in land development in a specific geographic area; and
  - B. The total land development would exceed the planned or existing capacity of public facilities.
  
2. **Specific Geographic Area.**
  - A. The City Council has identified the areas of the City which are either undeveloped or are capable of having further development occur, both types of areas being within the City, and have experienced a rapid increase in total development and be affected by the fact that the total land development would exceed the existing capacity of public water facilities
  - B. These areas are the geographic areas for the public facility strategy since the estimated demand for water service exceeds the capacity of the wells and water treatment currently available and expected to be available during the next two to three years. The Planning Department has on file the various locations of these areas. The areas encompass a majority of the area north of the Willamette River as the Charbonneau District south of the River has experienced almost full build out.

3. **Problem Summary.**

The City has had in place since January 5, 1998, a moratorium because of inadequate water capacity. It has been renewed three times by six-month increments and the statutory two-year maximum period for a moratorium will run out on January 5, 2000. The new Willamette River water intake and treatment plant will not be in place until April 2002. There is a two to three year gap from the time the Water Moratorium runs out and when the Willamette River water intake and treatment plant's capacity will be available.

4. **Applicable Concurrency Goals, Policies and Standards from City of Wilsonville Comprehensive Plan.**

Urban Growth Management:

Goal: "Allow growth to continue at a rate consistent with...the economics of providing public services and facilities...provided that such development is consistent with livability within the city."

Objective 2.1.6: "Allow zoning to proceed when services are scheduled but allow actual development only when public services and facilities are available."

Goal 3.1: "Plan for and provide adequate public facilities and services closely tied to the rate of development."

Objective 3.1: "Urban development should be allowed only in areas where necessary services can be provided."

Objective 3.4: "Require that primary facilities be available or under construction prior to issuance of a building permit."

Policy 4.2.5, 4.3.5: "Development will coincide with the provision of public streets, water and sanitary sewer and storm drainage facilities. These facilities shall be: (a) capable of adequately serving all intervening properties as well as the proposed development and, (b) designed to meet City or County standards."

Policy 4.3.9: "Restrict the number of housing starts to the capacities of public facilities and services."

**Facilities and Service Categories:**

"Primary Facilities and Services are those which significantly impact public health and safety and are directly linked to the land development process, in terms of service capacity, location and design or directly affect public health and safety. Therefore, adequate provision must be made for these facilities/services prior to or simultaneous with urban level development."

These facilities and services include:

1. Sanitary Sewer
2. Storm Drainage
3. Police Protection
4. Water
5. Roads
6. Fire Protection and
7. Fire Fighting Capability

Policy 3.2.2: "The City shall continue to develop, operate and maintain a water system, including wells, pumps and reservoirs capable of serving all urban development within the incorporated City limits. The City shall also maintain the lines of the distribution system once they have been installed and accepted by the City."

Policy 3.2.3: "The City shall, through a Capital Improvement Program, plan and schedule major water system improvements needed to serve continued development, e.g., additional wells, pumps and reservoirs."

**5. Applicable Implementing Development Code Provisions.**

In 1982 the City implemented its plan through its zoning and development code, which is Chapter 4 of the Wilsonville Code, and which was also acknowledged by LCDC, which includes the following:

WC 4.139(4) "A planned development permit may be granted by the Planning Commission only if it is found that the development conforms to all the following criteria, as well as to the Planned Development Regulations in Sections 4.130 to 4.140: .....

- (c) That the location, design, size and uses are such that the residents or establishments to be accommodated will be adequately served by existing or immediately planned facilities and services."

**6. The Relationship Between Concurrency Policy and Water Infrastructure and Development**

Normally, without the water treatment plant construction, development would be denied because its water requirements would exceed the capacity of the existing wells. However, Comprehensive Plan Objective 3.4, recited above, provides for a "concurrence policy", allowing planning approvals to go forward if the capacity correction is available or under construction prior to the issuance of a building permit. Once the water treatment plant is under construction, permits could be approved under this policy, however, for health and safety reasons an adequate water supply must be available while the planned water treatment plant design and construction proceeds.

- A. The City of Wilsonville is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Plan.
- B. 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.

- C. The City's acknowledged Comprehensive Plan policies also commit the City to provide water service that keeps pace with development.
- D. During the period of the Water Moratorium adoption and implementation the City found that there is a demonstrated need to prevent a shortage of water for domestic and fire flow usage which would otherwise have occurred 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).
- E. The circumstances necessitating the moratorium had not appreciably changed within the next two years of the moratorium. Rather these circumstances have intensified. Because of that, the City Council extended the moratorium for three, six-month extensions and water system improvements are in process but are not yet available to serve new development. During the water moratorium on planning approvals, no building permits were actually denied. Planning approvals were allowed to proceed, but final approval was withheld pending water capacity. In fact, the building activity proceeded at a rapid pace with a total of \$88.4 million of building valuation activity having been approved between January 5, 1998 and November 1, 1999.
- F. The findings of demonstrated need included in Ordinance No. 493 and Ordinance No. 497, Ordinance No. 504, and Ordinance No. 506, continue and those findings convey the severity of the water shortage situation faced by the City.
- G. The Findings and Determinations of Ordinance 493, 497, 504 and 506 are still relevant and material, and are incorporated by reference herein.
- H. The following are additional findings, as required by ORS 197.768:

- 1) The problem giving rise to the moratorium still exists. The City continues to experience falling water table levels and declining water quality in the wells that supply all of the City's water. The record of Ordinances 493, 497, 504, and 506 incorporated by reference herein, describes the declining status of the City's water system.
- 2) Reasonable progress is being made to alleviate the problem. The City's study of alternative sources of water is now complete and the citizens have approved the Willamette River as the City's water source for its newly authorized funding for a water treatment plant.
- 3) The moratorium will expire on January 5, 2000, in conformance with State law.

**7. The Safety Mitigation Plan Through Water Management**

A. Because the predicted, over-capacity condition of the water system, was identified as a limitation on future development in Plan policies, the City has also provided a policy for re-evaluation and reduction in the level of water consumption. In order to manage immediate growth, Comprehensive Plan policy 2.2.2 provided a process for the Planning Commission to recommend development phasing. It states: "To insure timely, orderly and efficient use of public facilities and services, while maintaining livability within the community, the City shall establish a program consistent with the City's regional growth allocation and coordinated with the Capital Improvements Plan." Subsections of the Policy further state:

- a) "annually the Planning Commission shall review growth related data, e.g., availability of public facilities, scheduled capital improvements, need for housing, commercial development and/or industrial development. Etc.,

and shall, as determined necessary following a public hearing, recommend to the City Council a Growth Management Plan.”

b) “To maximize design quality and conformity to the Comprehensive plan the City shall encourage master planning of large land areas. However, as an added growth control, the Planning Commission may, as a condition of approval, set an annual phasing schedule coordinated with scheduled Capital Improvements, particularly streets and related transportation facilities.”

**8. Specific Steps the City Has Taken to Ensure an Adequate Water Supply**

- A. At a cost of \$1.9 million the City constructed a 2 MGD water reservoir. The City purchased a 30-acre site on the Willamette River that is appropriate for a water treatment plant. City voters on September 21, 1999, approved a \$25 million bond to build a Willamette River water treatment plant and as of this date the City of Sherwood and Tualatin Valley Water District have tentatively agreed to participate in this project. Other cities are considering whether to join in this project.
- B. The City of Wilsonville is in the process of selecting a team to design and build this water treatment plant with an operating date of April of 2002.
- C. The State has a need for a source of water for its Day Road Prison site in Wilsonville and the City has agreed to provide this water from its new water treatment plant. The State will participate financially in its share of the water treatment plant, supply line, storage and additional costs and to expedite construction.
- D. The year round daily use of water currently averages two and one-half (2.5) million gallons and on peak summer days, even with major water conservation approaches the 5.2 million gallons, the theoretical maximum capacity of the City’s wells. With the same level of conservation

experienced during the summer of 1999, there would be available capacity for about one half of those projects already approved pending availability of water. Detailed figures are as follows:

Peak well capacity in million gallons per day (MGD)	4.89
Storage drawdown in MGD	0.60
Modify Geselishaft well in MGD	0.30
Continued drop in production in MGD	- 0.40
Available in MGD	5.39
Use in summer 1999 in MGD	-4.53
Additional constructed in MGD	-0.06
Available to allocate in MGD	0.80

- E. In order to meet legal constraints, Stage II approved projects are grandfathered under the moratorium and its extensions and are estimated to consume additional 0.52 millions of gallons of water per day (mgd) unless measures are taken to reduce this consumption.
- F. Development projects that have already received planning approvals subject to the moratorium were allowed, as a result of negotiations with the Metropolitan Home Builders to go through the planning process but without final approval (pending additional water availability) which would consume an estimated 0.28 millions of gallons of water (MGD).
- G. It has been estimated by a competent waterwise landscape expert, Hal Beighley that with redesign of landscaping and irrigation, up to 40% of irrigation water of the Stage II approved projects water could be saved or postponed. This translates to 20% of the total site water consumption. He analyzed in detail a 20-acre approved project and gave numerous ways to economically save water.



- H. By State law, the City moratorium and extensions must end on January 5, 2000. Yet the new Willamette River water intake and treatment plant will not be in place until April, 2002. There is a two to three year gap from the time the Water Moratorium expires and the time the Willamette River water intake and treatment plant's capacity will be available. This is the primary reason for the need for this Public Facility Water Strategy under the current crisis.
- I. The City has declared an emergency and a Water Conservation Program each summer for the last several years and has decreased water consumption to match reduced production capacity limits in spite of major growth and development during that time, but further conservation will most likely yield a diminishing return according to water surveys. Water consumption in each of the last five years was actually below the 1994 consumption, but with reasonably favorable weather conditions.

9. **Land Development Is On A Pace To Exceed The Capacity Of The Current Water System Improvements.**

A. The following chart further illustrates development, since adoption of the Water Moratorium in 1998, will exceed capacity.

Supply

8/13/99	Jan 1997 Report	October 1997 Status	Jan 1998 Status	Nov 1998 Status	May 1999 Status	Aug 1999 Status
Production with New well	5.55 MGD	5.38 MGD	5.49 MGD	5.44 MGD	5.31 MGD	5.31 MGD
Use of reservoir to meet maximum day requirement	0.20 MGD	0.20 MGD	0.20 MGD	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	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	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	0.13 MGD	0.13 MGD	0.13 MGD
20% of new reservoir capacity	0 MGD	0.40 MGD	0.40 MGD	0.40 MGD	0.40 MGD	0.40 MGD
Source to be Identified			0.09 MGD	0.14 MGD	.27 MGD	.23 MGD
<b>Total</b>	<b>7.07 MGD</b>	<b>7.30 MGD</b>	<b>7.50 MGD</b>	<b>7.50 MGD</b>	<b>7.50 MGD</b>	<b>7.46 MGD</b>

Demand

	Jan 1997 Report	October 1997 Status	Jan 1998 Status	Nov 1998 Status	May 1999 Status	Aug 1999 Status
Unconstrained maximum day consumption-Summer 1996	5.66 MGD	5.66 MGD	5.66 MGD	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	1.84 MGD	1.84 MGD	1.80 MGD
<b>Total</b>	<b>6.99 MGD</b>	<b>7.27 MGD</b>	<b>7.50 MGD</b>	<b>7.50 MGD</b>	<b>7.50 MGD</b>	<b>7.46 MGD</b>
Available for Future projects	0.08 MGD	0.03 MGD	0.0 MGD	0.0 MGD	0.0 MGD	0.0 MGD

\* At normal consumption rates without water restrictions.

10. **The Public Facilities Alternative**

- A. The City was an active participant in developing the Public Facilities Strategy legislation with the Home Builders, Department of Land Conservation and Development (DLCD), and the Oregon League of Cities, as an alternative approach to address these types of facilities issues as exemplified by the Wilsonville Road/I-5 capacity problems and the City's Public Facilities Transportation Strategy. A Public Facilities Water Strategy provides a reasonable method to manage the City's growth while experiencing a lack of water capacity. (See record for correspondence from DLCD and Legislative Counsel.)

The City is now faced with the prospect of denying development applications within Wilsonville based on the inadequacy of public water supply. The City of Wilsonville had negotiated an agreement with the State Department of Corrections and Tualatin Valley Water District (TVWD) that TVWD would route an additional two million gallons per peak day through the City of Tualatin to serve the prison's needs (until 2005) of up to 630,000 gallons per day with the remainder of approximately 1.3 million gallons to serve the City's interim needs until 2005. In late August, 1999, the City was advised by TVWD that it could not provide the 2 MGD as promised without the cooperation of the City of Tualatin. While this situation seems to meet the moratorium exemption in ORS 197.505(1), two denials or more could be interpreted as a pattern and practice of denying or delaying permits. Given LUBA's prior interpretations of this language in its decision regarding the City's Ordinance 431, Traffic Growth Management Ordinance, such actions could be interpreted as a moratorium. ORS 197.505 has been amended by HB1184 in Section #4 to state that "a local government shall approve an application if consistent with applicable Comprehensive Plan or regulations or shall impose reasonable conditions on the application to make the proposed activity consistent with the plan or regulations. It may

deny the application that cannot be made consistent by imposition of reasonable conditions of approval.”

- B. The City has examined the option of going to a full emergency water savings plan including no irrigation in the summer. Such a plan would prohibit most outdoor uses of water.
  
- C. Without a full comprehensive review, and time being of the essence, the City Council finds that going to full emergency summer water restriction on irrigation for up to three years is an abdication of its land use planning responsibilities and duties imposed by the Legislature to assure the highest level of livability in Oregon, as specified in ORS 197.010(1). The City Council has been privy to Metro surveys and has conducted its own future survey on issues of livability and quality of life. Surveys indicate that among the top indicators of quality of life is how a community looks and feels through its landscape treatment. Those polled tend to directly equate total “brown out” with a worsening quality of life and a loss of Oregon’s livability and full emergency restriction on summer irrigation watering would risk losing much of the City’s newly planted trees and landscaping. Also, traditionally, water system managers have reserved full emergency water restrictions for unforeseen systems failures (such as electrical outage, mechanical breakdown, etc.) Depending on “emergency water” to meet day to day demand would put the system and the City’s ability to provide fire protection at a greater risk in the event something unforeseen occurs that necessitates further curtailment of water usage. We note California’s inability to keep up with its infrastructure demands causing an adverse effect that it has had on the livability of that state. It appears that while a moratorium can logically have a negative economic effect, the lack of water and resulting down-turn in quality of life from deficient landscape and the risk of additional safety hazards lead to the same effect. Therefore, it makes more sense to control growth through an adopted

public facilities strategy until such time as the water treatment plant is operational.

- D. A Public Facilities Water Strategy offers a degree of flexibility not available in a moratorium as defined in ORS 197.505 and phased development and an expanded conservation program, will allow a substantial level of development to go forward after this ordinance is adopted.

**11. Housing Within Wilsonville**

- A. The present inventory of approved housing projects within the City of Wilsonville is significant and the availability of vacant land within the City is not of such proportion as to negatively affect adjacent communities upon implementation of this facilities strategy. There are at least eight (8) housing projects with approximately 500 housing units which can move forward if this Public Facility Water Strategy is approved. (Table A, Nos. 1, 4, 10, 13, 14, 24, 25, part of 28).

**12. LCDC Acknowledgement**

ORS 197.768 requires that Public Facilities Strategies be acknowledged by the State Land Conservation and Development Commission as complying with the Statewide Planning Goals. The City Council of the City of Wilsonville hereby makes the following findings in relation to the Statewide Planning Goals:

**A. Goal 1 Citizen Involvement**

- 1) Public hearings have been conducted before both the Planning Commission and City Council prior to adoption of this ordinance. A hearing notice was published in the Wilsonville Spokesman newspaper in advance of those hearings. Additionally, separate notices were mailed directly to each property owner in the City and

to the individuals who took part in the water moratorium public hearing process as well as other cities, counties and agencies.

- 2) Water capacity and quality remains a critical issue to local citizens. The City's Planning Commission, Development Review Board and City Council regularly hear testimony in opposition to any proposal that will unreasonably increase water use in Wilsonville. Water-wise landscaping is supported.
- 3) Through the process that led to the vote on the water treatment plant bonds, the citizenry, and the City decision makers, were provided with a wealth of information (including technical information) on water and its relationship to new development. Wilsonville's citizens are both knowledgeable and concerned about local water problems. In addition there have been 100's of newspaper articles and letters to the editor published in the local newspaper and in the Oregonian.

B. Goal 2. Land Use Planning

- 1) Goal 2 requires actions and implementation measures to be consistent with local comprehensive plans. As is noted above, the adoption of this Public Facilities Water Strategy implements provisions of the City's acknowledged Comprehensive Plan dealing with the phasing of growth in anticipation of the construction of public facilities improvements.
- 2) Goal 2 also requires planning coordination with other affected units of government. Notice and information has been given to all surrounding cities and counties.

C. Goal 3 Agricultural Lands

- 1) No actual impacts on agricultural lands are expected to result from the adoption of this Public Facilities Water Strategy. There is no clear evidence indicating a connection between city wells and agricultural wells.

D. Goal 4 Forest Lands

- 1). No impacts on forest lands are expected from the adoption of this Public Facilities Water Strategy.

E. Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources

- 1) No impacts on open spaces, scenic and historic areas, or natural resources are expected to result from the adoption of this Public Facilities Water Strategy except for continued curtailment of outdoor watering during the peak summer season.
- 2) Existing aggregate removal operations, also addressed as resources under Goal 5, will not be affected from the implementation of this Public Facilities Water Strategy.

F. Goal 6 Air, Water and Land Resources Quality

- 1) This Public Facilities Water Strategy is intended to assure that growth will not overload water facilities to the point where it jeopardizes the City's ability to meet health and safety needs of the community. It is, therefore, intended to help limit well intake capacity loss and reduction of water table levels.
- 2) No direct impacts on water or land resource quality are expected to result from the adoption of this Public Facilities Water Strategy. Indirectly, newly established landscaping is protected.

G. Goal 7 Areas Subject to Natural Disasters and Hazards

- 1) No direct impacts are anticipated. The adoption of this Public Facilities Water Strategy is not expected to subject persons or property to hazards but to protect them by having an adequate supply of water for fire fighting.
- 2) Adoption of this Public Facilities Water Strategy is intended to avoid water system failure or overload which would be a threat to public health and safety. Without the City taking measures to limit water consumption or increase capacity, there would be water system failures for all types of emergencies, including fires. This is an extremely serious problem in the summer months because Wilsonville's reservoir capacity is limited despite recent expansion in reservoir capacity.

H. Goal 8 Recreation Needs

- 1) The adoption of this Public Facilities Water Strategy is not expected to have any further effect on recreational resources or the public's use of such resources. It is recognized, however, that the development of recreational facilities that would tend to generate summer month use could be constrained during the life of this ordinance. No such facilities are planned which are expected to be affected. As part of its conservation efforts, the City has ceased irrigation of recreation fields and parks and City landscaping when emergency water restrictions are in place.

I. Goal 9 Economy

- 1) Goal 9 requires the City to plan for adequate amounts of commercial and industrial development. As of June, 1999, the City had approximately 84 acres zoned for commercial development which was vacant and not already approved for development, with 281 acres in commercial use (23% vacant). At



the same point in time, Wilsonville had more than 308 vacant acres zoned and available for industrial development, with more than 844 acres in industrial use (27% Vacant ).

- 2) This Public Facility Water Strategy allows development to continue at a pace consistent with the City's ability to supply water. It is projected that such projects may add more than one million square feet of commercial/industrial space in Wilsonville.
- 3) The Public Facility Water Strategies provides that existing businesses in the City will not be prevented from expanding if they can mitigate their water impacts, or if such expansion has de minimus impacts on the peak-season water demands.

J. Goal 10 Housing

- 1) Goal 10 requires the City to accommodate a mix of housing prices and rent levels. The City meets the requirements of the Metro Housing Rule (current records indicate that Wilsonville has as many multiple family units as single family dwelling units.) This Public Facility Water Strategy, if approved, will allow at least eight (8) projects with approximately 500 housing units to move forward, including a mix of housing types (Table A, Nos 1, 4, 10, 13, 14, 24, 25, part of 28).

K. Goal 11 Public Facilities and Services

- 1) Goal 11 requires the provision of "timely, orderly and efficient" facilities and services. The City has proven its commitment to timely, orderly, and efficient facilities and services by recently completing more than \$10 million in wastewater treatment plan expansion and upgrades. The City's 1999/2000 Capital budget includes approximately \$23 million for improvements to Wilsonville's public facilities and services. Revenue bonding of

\$25 million has been approved to build a new water treatment plant.

- 2) The City of Wilsonville has recently updated its Capital Improvements Plan and is in the process of updating its transportation systems plan. A storm water plan is almost complete. The City has worked with a number of State agencies and Metro in the preparation of a master plan for the redevelopment of the Dammasch State Hospital and surrounding private properties. The City is cooperating with the State on the provisions of public facilities for the new prison to be built on Day Road. The City is also actively involved with Metro on regional planning issues. Such coordination and planning indicate the City's commitment to providing facilities and services to a growing population.
- 3) The City's current lack of water capacity cannot be solved through treatment plant construction alone, despite the City's extraordinary commitment to funding public facilities, because there is a two to three year gap before the improvements will be available.
- 4) Even if all of the wells were operating at full capacity and the City builds the approved water treatment plant, the City will need a multi-faceted water facilities strategy to meet capacity and growth issues for the two to three year period before the treatment plant is on line.
- 5) Goal 11 requires the City to assure that public facilities relate to the land use portion of the Comprehensive Plan. As noted above, the City's Comprehensive Plan specifically calls for the phasing of growth in relation to the provisions of public facility

improvements. This Public Facility Strategy implements those provisions of the Comprehensive Plan.

L. Goal 12 Transportation

- 1) Goal 12 requires a “safe, convenient, and economic transportation system.” The City of Wilsonville adopted a Transportation Public Facilities Strategy on October 9, 1996. In implementing that strategy, the City has been able to continue development and to provide \$3,715,730 for the improvement of Wilsonville Road at the I-5 Interchange and an additional \$2,800,000 for the improvement of Wilsonville Road from Boones Ferry Road west to the railroad tracks. Such funding amounts to a total of more than \$8,230,000 committed by the City to improve the immediate traffic situation. This sort of commitment is rare for a city of Wilsonville’s population. The City has also spent more than \$120,000 to prepare a new Transportation Systems Plan, which is nearly complete.
- 2) In addition to I-5/Wilsonville Road funding, the City has funded through Local Improvement Districts (LID’s) approximately \$7 million in new street construction since the Transportation Management Plan was adopted in 1991. These road improvements include 95<sup>th</sup> Avenue, Ridder Road and Canyon Creek North – critical connectors identified in the 1991 Transportation Management Plan.
- 3) Transportation capital improvements may continue to be advanced through development construction and system development charges under a Public Facilities Strategy, as in the case of the Transportation Public Facilities Strategy. To the extent this public facilities water strategy allows development to proceed, it provides

opportunities for transportation improvements relative to the allowed development to go forward.

M. Goal 13 Energy Conservation

- 1) Goal 13 requires the City to take steps to conserve all forms of energy, based on sound economic principles. It is recognized that water rationing can result in energy conservation when people stop watering their landscaping.
- 2) This Public Facilities Water Strategy assures that growth will not overload water public facilities. Therefore, it limits wasteful energy consumption although in customary water conservation programs, energy waste is not a significant factor.

N. Goal 14 Urbanization

- 1) Goal 14 requires the City to logically plan for urban growth. Wilsonville is doing this through a coordinated planning effort with Metro. Metro has asked the City to plan on essentially doubling the population and work force within Wilsonville over the next twenty years. The City is committed to working with Metro in such a regional planning effort. However, this effort requires a well-thought-out plan with a focus on adequate public facilities and services and a mechanism for funding those facilities and services. It will not be accomplished by allowing growth to exceed the capacities of those facilities and services even during the two to three year period until the water treatment plant is available. The public facility water strategy supports continued development at a pace with available water supply.
- 2) Adoption of this Public Facilities Water Strategy will not prematurely hasten the conversion of rural lands to urban uses because there is land within the City remaining to develop and the

City's urban growth boundary is contiguous with the City's boundary. Also this Public Facility Water Strategy will allow at least 500 housing units in eight (8) projects to move forward.

- O. Goal 15 Willamette River Greenway
  - 1) No adverse impacts on the Willamette River Greenway are anticipated as a result of this Public Facility Water Strategy. The treatment plant itself will be located outside of the Greenway. To the extent any water intake facility is within the Greenway applications for the applicable Federal, State, and local permits will be made.

**12. Specific Notice and Process Findings.**

- A. The City has duly provided the Department of Land Conservation and Development with the required 45 day written notice prior to first public hearing.
- B. The City has duly provided notice to all property owners.
- C. Public hearing before the Planning Commission and the City Council on the adoption of this ordinance which sets forth the public facilities water strategy and the findings which support the strategy has been duly held.
- D. The City Council finds that based upon reasonably available information found in the record including the moratorium record, as supplemented in the record herein, growth management limitations on new development are justified to prevent a shortage of service capacity of a public water facility which will otherwise occur during the effective period of this public facilities strategy.

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

**SECTION 1: DETERMINATIONS AND FINDINGS**

- A. The City Council adopts the above recited findings as findings of fact and incorporates them by reference in support of this ordinance and the determinations hereinafter made.
- B. The City Council hereby determines that between 5 and 10 million gallons of water per day (MGD) will become available upon completion of a water treatment plant. Until that water capacity is available, developments already holding Stage II approval, or approved pending water availability, will cause the City's peak-day water use to exceed the City's current water production capacity. Nevertheless, the City's water moratorium must end January 5, 2000.
- C. Wilsonville Comprehensive Plan Policy 3.3.3 permits development to go forward upon conditions relating to the timing of the provision of public services. Policy 3.3.3 is met if the public service capacity improvement is planned and funding is committed for construction to occur prior to the issuance of a building permit and occupancy permit for a conditioned development, provided there is no serious endangerment to public health and safety. Since construction of the water treatment plant will take two or more construction seasons after the moratorium ends, the City Council determines that unconstrained development in the interim will endanger public health and safety.
- D. The City Council hereby determines that the Public Facilities Water Strategy recited hereafter meets the requirements of ORS 197.768 and under the totality of the circumstances, provides for development to go forward under conditions which will protect the public health and safety.
- E. The City Council hereby determines the Public Facilities Water Strategy will cease to be in effect (sunset) at such time as the water treatment plant provides adequate water capacity. The plant is scheduled to be on line by April 15 of 2002.

- F. The City Council hereby determines that there are three categories of conditional review, based on a time-line that is tied to projected occurrences over the next two to three years. Categorizing stage II approvals allows development to move forward at a pace consistent with the city's ability to supply water to new development. The first category is for developments that, upon occupancy, do not affect peak season water capacity throughout the life of the ordinance. The second category is for developments that will not be occupied and using water during the peak season until after the anticipated completion date of the treatment plant. Category 2 developments, therefore, do not affect water capacity. The third category is for developments that will create new peak season demand for water. The three categories will also allow for consideration of new information and changing circumstances. The following standards for each category of conditional review are hereby adopted:

**CATEGORY 1.**

**(NO EFFECT)**

- 1.) Developments that do not create any new peak season demand for City water in 2000 and 2001 beyond that which is currently consumed, whether because of design, location, hours of operation, implementation of a water mitigation program, or other reasons, shall not be subject to the limitations of this ordinance.
- 2.) A development may qualify as a Category 1 if it meets one of the following criteria:
  - a. The development has a "de minimus" water wise impact (less than 2,000 gallons/peak summer day).
  - b. The development provides essential government services, or public water facilities.

**CATEGORY 2.**

**(NO OCCUPANCY PRIOR TO OCTOBER 15, 2001)**

All developments that increase peak season use of City water, including new and previously approved stage II planned developments, conditional uses, subdivisions, partitions, variances, and zone changes, may be approved by the City and building permits issued pursuant to such approval, provided the applicant signs a certification acknowledging that an occupancy permit will not be issued until after October, 15, 2001, and that City water will not be available for landscaping or construction until after October 15, 2001. Landscape installation may be bonded for Category 2 projects until April 2002.

**CATEGORY 3.**

**(DEVELOPMENTS WITH PEAK SEASON WATER USE IMPACTS IN  
2000 AND 2001.)**

- 1) Developments that do not meet the criteria of Categories 1 and 2 and which will increase peak season water demand prior to October 15, 2001, shall be considered Category 3 developments and shall be placed in a queue with other Category 3 developments. A Category 3 development with stage II approval shall not receive a building permit unless that development reaches the top of the queue and a determination is made that water is available to satisfy that development's peak day demand. The queuing procedure and methodology for determining water availability are explained in the phasing schedule contained herein.
- 2) Category 3 developments include:
  - a. those developments which have received final (stage II) approval for development, but not building permits;
  - b. developments that were otherwise allocated water per Ordinance No. 493 and its extensions,



- c. developments that completed the planning process pursuant to the conditions of Ordinance No. 493 and its extensions, but for final approval pending water capacity availability. (Prior approvals are listed on Table A);
- d. those developments which have not yet received Stage II approvals.

## SECTION 2: PHASING SCHEDULE

A. The City of Wilsonville hereby adopts a three-year phasing schedule for Category 3 development with an emphasis on reducing water usage to maximize system capacity. Water allocations are based on maximum day for similar facilities. The phasing schedule is based on a first-in-line to approval process.

- 1) Developments described in Section 1, are hereby placed in a queuing line ordered sequentially by date of approval or allocation (as applicable), with the first in the queue receiving number 1 as set forth in Table A, attached hereto and incorporated by reference herein. This queuing line is based upon and is consistent with those developed under the City's moratorium ordinance and its extensions. Category 3 developments described in Section 1, shall, upon receiving stage II approval, be placed at the end of the queue in sequential order of the receipt of stage II approval.
- 2) Prior to receiving a building permit, each development in the queue from number one through part of number 28, representing 0.801 million gallons of peak season city water consumption, shall file with the Planning Director a water-wise conservation plan which reduces an individual development's water use during the summer months by 20% from the total project allocation per Table A. If by October 15, 2000, a development with stage II approval and an approved water allocation has not filed a complete

application for a building permit for construction, it shall move to the end of the queuing line in order of their planning approval date.

- 3) Commencing October 15, 2000, or sooner should additional water capacity become available, the next developments in the queue, the remainder, if any, of number 28 and from number 29 to number 30, (and additional as approved) representing an estimated 0.157 million gallons based on water wise conservation plans for queue numbers 1 to part of 28 of peak season water consumption shall each file a water-wise conservation consumption plan with the Planning Director to reduce an individual development's water use during the summer months by 20% from the total project allocation per Table A, prior to receiving a building permit for construction. If by October 15, 2001, a development with stage II approval and an approved water allocation has not filed a complete application for a building permit for construction, it shall move to the end of the queuing line in order of their planning approval date. If the Community Development Director determines that additional capacity is available by October 15, 2000, the Director may move a development up in the queue in sequential order, such that development at the top of the queue will not exceed the additional capacity.
  
- 4) Commencing October 15, 2001, or sooner should additional water capacity become available, unless a development has moved up in accordance with paragraph 3 above, and thereby causing an adjustment in the next in line, from number 28 to number 30 representing 0.031 million gallons based on water wise conservation plans from queue numbers part of 28 through 30 plus any addition added to cue and approved for development to peak season water consumption, shall each file a water-wise conservation plan to reduce an individual development's water use

on October 15, 2000 during the summer months by 20% prior to receiving a building permit. If at the end of one year, development has not proceeded with obtaining its building permit and commencing construction, it shall move to the end of the queuing line. If the Community Development Director determines that additional capacity is available by October 15, 2001, the Director may move a development up in the queue in sequential order, such that development at the top of the queue will not exceed the additional capacity.

- 5) Development excepted under paragraph 2 above, shall join the queuing line in order of the date of their Stage II development approval and shall submit as part of its application for a development permit a water wise water conservation plan.
- 6) A water wise conservation plan shall include the following:
  - a. Use of native plant materials, and landscaping and irrigation methods that minimize water use. Such plant materials and landscape methods may be referenced in the City's publication "Guidelines for Water Wise Landscape," March, 1998.
  - b. The phasing of project landscaping. Planting and irrigation shall be phased such that a minimum amount of water is used in the first phase, consistent with erosion control requirements unless all plants including lawns are initially watered by a drip system, in which case the permanent landscape plan may be installed in the first phase provided they obtain the 20% water-wise savings in water conservation as described in the previous section. The first phase is to end when the new water treatment plant comes

on line with added capacity. The final phase shall complete the permanent landscape plan as approved by the Development Review Board. This final phase shall be bonded until installed. The installation of water consuming landscape materials shall take place in the fall or winter so as to minimize water use in peak summer water use months, unless the developer agrees to use a watering truck utilizing water from a source outside the City of Wilsonville during the first two weeks following installation between June 15<sup>th</sup> and September 30<sup>th</sup> ("Establishment Period").

- c. The Planning Director, or his designee, is authorized to review the water wise conservation plan and to determine if it meets the 20% reduction standard set forth herein. The Planning Director or his designee is authorized to review and approve any revised landscaping plans previously approved to meet the 20% standard.

B. The City Council hereby determines that the following conditions are applicable to all Development.

- 1. Any water capacity allocated to a specific development and site shall remain with such in strict accordance with the stage I (Master Plans) and stage II (Site Development Plans) plans as approved, regardless of subsequent changes in ownership. Such use of water capacity may not be transferred to other properties, except as set forth in subsection 2 below. Substantial changes to site development or timing of phases, other than landscaping, affecting projects with stage II approval shall be reviewed by the Development Review Board for compliance with this ordinance. Such reviews shall be in accordance with Section 4.011 (Notice and Public

Hearing Procedures) of the Wilsonville Code and the appropriate filing fees shall be collected.

2. Peak season water capacity allocated to any current or future stage II development approvals shall be reclaimed by the City for reuse if that stage II approval has expired or if additional capacity becomes available because previously approved shell buildings, when fully leased, contain uses that consume less water than originally anticipated. All reclaimed water supply capacity shall be added to the total unused remaining water capacity and shall be used to prolong the useful life of the current water system to continue to serve development. The Community Development Director shall make the determination that this added capacity is available for reallocation to other approved stage II developments. The Community Development Director shall maintain a list of approved stage II development approvals, showing the volume of water allocated to each development. (See current list on Table A).
3. All new developments shall defer landscaping except for residential properties provided they obtain a 20% reduction in water consumption as enumerated in Table A, and Section 2.A. 6(b) above, except as required for erosion control, until after the new water treatment plant is on line. Bonding for deferred installation shall be required at the time of Development Review Board approval.
4. Grading permits and public works permits shall be issued only upon a determination by the Community Development Director that adequate water will be available for dust control and other construction purposes. Such availability may include water transported to the site from a source other than the City.
5. 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 (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 public facilities water strategy.

### SECTION 3. CITY CONSERVATION.

- A. The City shall reduce its water use, especially during summer months by:
- 1) Initiating a conservation program to reduce its demand for both domestic and irrigation water consumption.
  - 2) Working with the City's major employers to encourage conservation of domestic as well as irrigation water.
  - 3) Implementing the City's water-wise landscaping plan for public improvements to encourage alternative means of water conservation.
  - 4) Continuing to emphasize personal responsibility for reducing summer water consumption by modifying watering schedules and type of irrigation and emphasizing drought tolerant plant materials.
- B. The City's Water Conservation Program shall employ non-physical solutions and facility improvements as necessary and appropriate for reducing water consumption as alternatives to capacity improvements.

### SECTION 4. REPORT TO COUNCIL.

The City Council shall receive a report from the Community Development Director each November 1, at which time the Community Development Director shall present information on the status of this ordinance, including water

allocations, development projects, and improvements to water capacity and water conservation.

**SECTION 5. EXPIRATION.**

Upon completion of the water treatment plant and certification by the City Engineer, this Public Facilities Water Strategy ordinance shall automatically sunset and cease to be in effect.

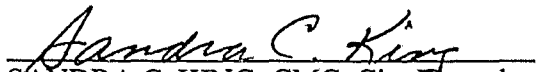
**SECTION 6. VALIDITY**

The validity of any section, clause, sentence or provisions 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 7. EMERGENCY DECLARED**

The moratorium ordinance expires January 5, 2000. Without an immediate public facilities water strategy in effect at the time the moratorium expires, as set forth herein, public health, welfare and safety, is endangered. The safe use of the water system must be immediately protected while the plant is under construction since water system will reach maximum capacity before it is built if development growth is not conditioned by the provisions of this ordinance. Therefore, an emergency is hereby declared to exist, and this ordinance shall become immediately effective upon its passage by the City Council.

**SUBMITTED** to the Wilsonville City Council and read for the first and second time at a regular meeting thereof on the 3<sup>rd</sup> day of January, 2000, commencing at the hour of 8 P.M. at the Wilsonville Community Center.

  
SANDRA C. KING, CMC, City Recorder

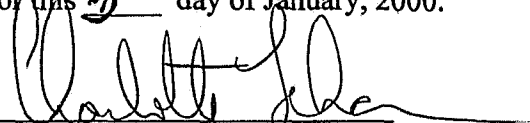
ENACTED by the Wilsonville City Council at a regular meeting thereof  
this 3<sup>rd</sup> day of January, 2000, by the following votes:

YEAS: -5-

NAYS: -0-

  
SANDRA C. KING, CMC, City Recorder

DATED and signed by the Mayor this <sup>4<sup>th</sup> day</sup> ~~3~~ day of January, 2000.

  
CHARLOTTE LEHAN, Mayor

SUMMARY of votes:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Barton	Yes
Councilor Helser	Yes
Councilor Holt	Yes



	A	B	C	D	AJ	AK	AL
10	<b>REVISED TABLE A(Rev2)</b>						
11		<b>Consumption under 1998 rate of use with water restrictions until WTP is constructed for existing &amp; planned projects</b>					
15		Update 1/5/2000 to include Council modifications on 1/3/2000	Ping Ref	Date of Stage II approval	Total Inside In GPD	Total outside In GPD	Total In GPD
16		<b>Historical max day production</b>					
18		Revision 2 increased units used in calculations for Morrison Eastern Western from 326 to 372					
19		Summer 1999 est max day consump (7/30/99)			2,540,000	1,990,000	4,530,000
20		<b>Water Requirements for Projects with Approval</b>					
21		<b>Completed or under construction with no summer 1999 demand</b>					
22		Cascade Housing Group-Wiedeman Senior Apartments	96DB13	8/13/96	8,900	9,200	18,100
23		Marquis-Willamette Woods Senior Community aka Vintage Suites (80 units and 39 skilled beds)	96DB28	10/15/96	13,700	14,100	27,800
24		Glenn H. Gregg-Vlahos Firs aka The WV Carmon Oaks Ph1	97DB10	6/3/97	3,100	3,100	6,200
25		Tektronix-Tektronix campus	97DB18	6/24/97	500	400	900
26		Don Rasmussen Mercedes-Benz first bldg	97DB23/97DB01	2/23/97	2,000	1,900	3,900
27		Willamette Valley Homes-Condos	97DB30	10/13/97	1,300	1,600	2,900
28		Al Kader/storage	98DB06	3/10/98			
29		<b>Subtotal</b>			<b>29,500</b>	<b>30,300</b>	<b>59,800</b>
30		<b>Estimated max day consumption with projects completed or under construction since summer 1999</b>			<b>2,569,500</b>	<b>2,020,300</b>	<b>4,589,800</b>
31		<b>Approved/Grandfathered Projects</b>					
32	1	Hummelt Phases I, II and III aka Morey's Landing (total of all 3 phases)	96DR13	5/13/94	8,800	9,700	18,500
33	2	Marathon Mgt-Teufel aka Village at Main Street-Commercial (adjusted up by 8,400 GPD based on meter readings)	95PC27	11/6/95	40,200	32,200	72,400
34	3	Marathon Mgt-Teufel aka Village at Main Street-First MF Phase (Adjusted down by 4,900 GPD based on meter readings)	95PC27 & 97DB12	11/6/95	11,700	17,600	29,300
35	4	Marathon Mgt-Teufel aka Village at Main Street-Second MF Phase	95PC27 & 97DB12	11/6/95	34,300	35,400	69,700
36	5	Marathon Mgt-Teufel aka Village at Main Street-Single Family Phase	95PC27	11/6/95	33,300	36,700	70,000
37	6	Julie Lewey-Oregon Pacific Investment (expired reduced total by 8,500 GPD)	96PC03	2/13/96			
38	7	Deerfield Partn (Conway)-Tk Term on Comm C	96DB15	7/23/96	4,000	3,300	7,300

	A	B	C	D	AJ	AK	AL
10		<b>REVISED TABLE A(Rev2)</b>					
11		<b>Consumption under 1998 rate of use with water restrictions until WTP is constructed for existing &amp; planned projects</b>					
15		<b>Update 1/5/2000 to include Council modifications on 1/3/2000</b>	Plng Ref	Date of Stage II approval	Total inside In GPD	Total outside In GPD	Total in GPD
39	8	<i>Bob Lee, Gimini Corp-WV Rental (Listing to be deleted because of diminimis status per adoption of this ordinance)</i>	96DB16/97DB29	7/31/96			
40	9	Tait & Assoc-Unocal	96DB29	9/24/96	2,000	2,000	4,000
41	10	Marquis-Willamette Woods Senior Community aka Vintage Suites (water remaining for future phase)	96DB28	10/15/96	14,200	14,700	28,900
42	11	Fox Center-renewed	96DB23	11/9/96	8,000	7,000	15,000
43	12	<i>Tim Knapp-Comm &amp; Ind Park (Listing to be deleted because of diminimis status per adoption of this ordinance)</i>	96DB34/ 97DB04	11/19/96			0
44	13	<i>Morrison Development aka Randall 372 apts on Canyon Creek aka Eastern/Western (Units adjusted &amp; total reduced by 22,900 GPD based on irrigation in 99)</i>	96DB24/97DB07	12/17/96	61,400	32,500	93,900
45	14	Polygon-Silver Creek	96DB35	1/24/97	8,000	7,200	15,200
46	15	<i>Don Rasmussen Mercedes-Benz second bldg (Listing to be deleted because of diminimis status per adoption of this)</i>	97DB23/ 97DB01	2/23/97		0	0
47	16	GlennH. Gregg-Vlahos Firs aka The WV Carmon Oaks Ph2	97DB10	6/3/97	13,900	14,200	28,100
48	17	Spleker Properties-WBC project-office (formerly Hollywood Video)	97DB19	7/28/97	32,000	28,000	60,000
49	18	Gary LaPoint-LaPoint Center Chevron Station/Market	97DB28	10/27/97	2,000	1,000	3,000
50	19	Ray Granvall-office building	98DB01	12/1/97	2,000	2,000	4,000
51	20	<i>Living Enrichment Center ( Will be deleted from list upon to receipt of a letter from the state of Oregon affirming continued water service to the LEC through Oct 15, 2001</i>		1/5/98	25,000	12,000	37,000
52	21	Capital Realty-Town Center, 3d Anchor-Capital Realty-Town Center-Phase III-added on 1/5/98	90PC15	6/11/90	5,000	4,000	9,000
53	22			1/5/98	47,000	23,000	70,000
54	23	Rebco - Ron Tonkin-change approved 8/9/99	99DB20	8/9/99	7,900	4,500	12,400
55		<b>Total</b>			<b>360,700</b>	<b>287,000</b>	<b>647,700</b>
56		<b>Total existing &amp; approved 10/5/99</b>			<b>2,930,200</b>	<b>2,307,300</b>	<b>5,237,500</b>
57		<b>Projects with planning approval subject to availability of water</b>					
58	24	Steve Berrey-Marcia's Vineyard - 126 Apartments	97DB34	10/27/97	20,800	21,300	42,100
59	25	J. D. Shin/Harvest Limited Partnership-White Oak - 326 Apartments	97DB24	11/24/97	53,800	32,500	86,300
60	26	Iosco - Warehouse/Distribution	97DB32	12/9/97	1,500	1,200	2,700

	A	B	C	D	AJ	AK	AL
10	<b>REVISED TABLE A(Rev2)</b>						
11		<b>Consumption under 1998 rate of use with water restrictions until WTP is constructed for existing &amp; planned projects</b>					
15		<b>Update 1/5/2000 to include Council modifications on 1/3/2000</b>	Plng Ref	Date of Stage II approval	Total Inside In GPD	Total outside In GPD	Total In GPD
61	27	<i>Roger Starr-office (Will be deleted from list upon receipt of satisfactory water quality data for new well)</i>	98DB28	7/30/98	6,000	5,000	11,000
62	28	Venture Properties-Canyon Creek Meadows 2-Single family ( Total reduced from 44,400 to 35,200 based on avg use for Canyon Creek Meadows) ( Water avail for 31 units) *	98DB48	4/12/99	21,100	14,100	35,200
63	29	<i>Venture Properties-Canyon Creek Meadows 2-multi-family</i>	98DB48	4/12/99	3,500	3,500	7,000
64	30	Venture Properties-Canyon Creek Meadows 2-Commercial	98DB48	4/12/99	17,000	15,000	32,000
65		<b>Total with planning approval subject to availability of water</b>			<b>123,700</b>	<b>92,600</b>	<b>216,300</b>
66		<b>Total approved &amp; approved subject to water avail 10/5/99</b>			<b>3,054,000</b>	<b>2,400,000</b>	<b>5,454,000</b>
67		* Water availability for remainder of 28 and 29 is subject to receipt of letter from state for LEC listing (20) and water quality information for Starr Project (27)					