

Sallal Water Association

Emergency Interim Rule

RECITALS:

- A. Sallal Water Association ("Association") has finite water rights that limit the rate and extent to which it can withdraw water from its wells.
- B. The City of North Bend ("City") annexed a portion of the Association's service area thereby creating an urban growth area that allows dense residential and commercial development.
- C. The Association's water rights are insufficient to serve all of the potential growth that could occur within the portion of the City served by the Association.
- D. The City is authorized by a recent water right permit to convey water to the Association for potable supply purposes; however, a wholesale water supply contract is needed for that to occur. In addition, installation of a new intertie, pumps, reservoir and water main will be needed in order for City water to be physically conveyed to the Association.
- E. Owners and developers of real property located in the annexed area are requesting certificates of water availability from the Association in order to commence planning, engineering and building permit applications. The Association is willing to issue the certificates subject to a condition that water service is dependent on the City and the Association executing a wholesale water supply contract. Other conditions may apply in addition such as installation of necessary water system infrastructure.
- F. The Association has adopted rules 40 and 41 governing applications for membership and issuance of certificates of availability. Portions of those rules applicable to residential plats, multifamily developments and commercial developments need to be suspended and replaced with an interim rule until a new wholesale water supply contract is in place with the City and sufficient water system infrastructure to implement the contract is installed.
- G. The Board of Trustees of the Association finds that immediate action must be taken in order to preserve the Association's water rights for the benefit of its members and potential members.

Now, therefore, the following motion is adopted as follows:

Motion to adopt an emergency, interim rule that amends and supersedes Rules 40 and 41 of the Association's Rules as follows:

(a) Management shall insert a condition on certificates of availability (including extensions of existing certificates) for proposed plats, subdivisions, apartments and commercial developments located within City boundaries providing that (i) water service is conditioned on approval and execution by the Association of a water supply contract with the City that provides the Association with sufficient water supply to serve new development in the City, and (ii) such other requirements that the Association management and engineer may determine appropriate;

(b) In consideration of the issuance of each such certificate, management shall require a hold harmless agreement from the applicant to deal with the possibility that negotiations with the City over a water supply contract are delayed or unsuccessful;

(c) Water service to a plat, apartment or commercial project within City boundaries shall be determined on a first come, first served

basis, defined as: When the developer has received City approval to construct the proposed improvements and submits signed membership application and developer extension agreement documentation to the Association along with payment of all requisite membership fees (to include any City imposed water system capital charges, if applicable), the application shall be deemed complete as of the last date of such elements to occur. Complete applications will be taken in order with the earliest entitled to priority over subsequent complete applications. A mathematical analysis will be performed by the Association's engineer for each complete application taking into account existing connections, memberships, commitments, senior applications and water system infrastructure to determine if the Association has sufficient legal and physical capacity to provide water service. To the extent that the engineer determines that the Association has sufficient legal and physical capacity to serve the applicant, a membership will be granted to the applicant. If sufficient capacity is not available, the application may, if the applicant so elects, be placed on a waiting list.

(d) This rule does not apply to certificates of availability and membership applications for one single family home located upon an existing single parcel of land and projects located outside of the City.

(e) To the extent that this motion is inconsistent with any rule, regulation, policy, practice or directive of the Association, including but not limited to Association Rules 40 and 41, the terms of this motion shall prevail.

(f) Upon mutual execution of a water supply contract between the City and the Association, this interim Rule shall be null and void unless the Association's Board of Trustees determines otherwise.