

**ORDINANCE NO. 2018-1**

**AN EMERGENCY ORDINANCE ESTABLISHING WATER SYSTEM REGULATIONS, WATER RATES AND FEES; REPEALING ORDINANCE NO. 2017-1**

THE NEAH-KAH-NIE WATER DISTRICT (“DISTRICT”) ORDAINS AS FOLLOWS:

**SECTION 1. General Provisions**

- A.** This ordinance shall constitute the Water Service Regulations of the District, and shall be known and pleaded as the “Water System Regulations Ordinance No. 2018-1.” This ordinance repeals and replaces Ordinance 2017-1 in its entirety. The following ordinances and resolutions previously adopted still remain in effect:
1. Water District Master Plan 2015
  2. Cross Connection Control Ordinance No. 2004-1
  3. Water System Development Charges Ordinance No. 2002-5
  4. Resolution establishing a Schedule of Fees as Required by Ordinance 2001-2002-6
  5. Resolution 2003-2004-3 to Increase System Development Charges (adopted April 13, 2004)
- B.** The Board of Commissioners shall have all general powers as provided for domestic water supply districts in ORS Chapter 198 and ORS Chapter 264.
- C.** Subject to all ordinances, rules and regulations of the District (including this ordinance), ORS Chapter 264, and all other applicable rules, laws, statutes, and regulations, the District shall supply water to all residential structures now existing within its territories, and to all residential structures hereafter legally constructed pursuant to a valid county building permit. The water supplied by the District shall be used exclusively for domestic purposes.
- D.** Subject to the ordinances, rules and regulations of the District and ORS Chapter 264, the District may in its sole discretion and on such terms and conditions as it determines appropriate supply surplus water over and above the needs of its full and part-time residents to any persons, corporations, associations, or other legal entities, either within or without the District, including to other communities, water districts or municipal corporations.
- E.** The District may adopt and promulgate regulations concerning the use of water and the property of the District. The District may refuse to supply any building, place or premises with water where the user fails, after five (5) days’ written notice, to comply with the regulations of the District. Written notice shall be by first class mail or shall be posted in some conspicuous place on the user’s building. Provisions of ORS 264.306 (as amended) shall apply.
- F.** Protection of the District’s pristine water source(s) and preservation of water quality and

## NEAH KAH NIE WATER DISTRICT

quantity is of paramount concern to the District. The provisions in this Section F shall therefore be interpreted or construed as broadly as possible.

1. Application for Water Service; Generally. In no event shall the District provide water service or issue a Water Availability Letter to any applicant for water service if the District determines that the delivery of water to the applicant could reasonably result in development, use, or activity that would pose a reasonable risk of adversely affecting or degrading in any manner, at any time, or to any extent whatsoever the quantity or pristine quality of the District's available water or its water source(s), or the applicant's use of his/her/its property could otherwise pose a public health hazard to the District's water quality or quantity of its water sources. The District has the discretion to condition water service or the issuance of a Water Availability Letter on any requirements that the District determines are necessary to fully protect and preserve the District's water quantity or pristine water quality. The District may refuse to provide a Water Availability Letter or refuse to continue to provide water service to any applicant or current user if the District determines that the user has engaged or will engage in development, or has taken or will take any other action, or engages in reckless or negligent behavior which threatens the quantity or pristine quality of the District's water sources.

2. Studies and Reports Required. Prior to issuing a Water Availability Letter or approving the extension of water service, the District in its sole discretion may require the applicant to submit any of the following to demonstrate to the District's satisfaction the applicant's compliance with this ordinance and all other District regulations, resolutions, and ordinances, including but not limited to Article 1(F)(1) above:

- a.) sanitation system report by a licensed engineer,
- b.) hydrogeology reports by a licensed hydrogeologist, which report shall include but is not limited to such analysis as detailed analytical results of fate and transport mechanisms, and flow pathways,
- c.) storm water management plan by a licensed engineer,
- d.) wastewater treatment specifications, design drawings and drawings certified by a licensed engineer,
- e.) geological hazard report(s),
- f.) geotechnical report(s),
- g.) percolation tests and bore holes,
- h.) and any other reports, documents, or proof reasonably required by the District.

The burden of proof is on the applicant to demonstrate compliance with this ordinance, as well as any applicable rules or regulations of the District.

3. Review of Water Availability Letter Application; Lapse. In no event shall the District be required to review an application for Water Availability Letter or for water service based on an incomplete application, as defined in this subsection. A complete application is defined as an application that has been filed with the Tillamook County Department of Community Development, and has been certified by the Tillamook

## NEAH KAH NIE WATER DISTRICT

County Department of Community Development as complete, save and except for the issuance of a Water Availability Letter by the District. Any Water Availability Letter shall lapse and be null and void twelve (12) months after the date on which the Water Availability Letter was issued.

4. Potential Threat to Water Quality or Quantity or Public Health. In no event shall the District be obligated to provide water service to any property the development or use of which the District reasonably believes threatens or will threaten the quality or quantity of the District's water or water source(s) in any way, minor or substantial at anytime in the future.

5. Determination of Complete Application for Water Availability Letter. The District shall notify the Applicant when it determines that the applicant's application is complete. The District shall thereafter have thirty (30) calendar days from submission of a complete application, as determined by the District, to request additional studies or documentation, as per Section F(2) herein. After the applicant has submitted these additional studies as requested by the District, the District shall provide a determination of the completeness of the application for Water Availability Letter and additional studies requested and the District shall have another 30 thirty calendar days to review the complete application and additional studies requested.

6. Additional Studies to be Conducted by District: Costs. In the event that the District decides that additional studies are required, the District shall notify the applicant. The District may but is not required to develop estimates and contract with consultants for such additional studies. The applicant shall be responsible for all costs associated with the additional studies. The District may require payment of such costs by the applicant before further processing of the application.

**G.** The Board of Commissioners may, by resolution, adopt or revise various fees from time to time and shall maintain a schedule of fees for public inspection at its office.

**H.** Any new residential homes within the Water District service boundary shall only be served by the District. No new wells shall be permitted within the District's boundaries for the supply of residential water.

### **SECTION 2. Definitions**

As used in this document, the following terms have the meanings given:

- A.** "Abandoned Account" means an account that is delinquent and unpaid for more than one year and shall be classified as an abandoned account after one full year of delinquency.
- B.** "Applicant" means any person or entity that applies to the District for water service.
- C.** "Board" or "Board of Commissioners" means the governing board of the District.
- D.** "Customer" means any person, firm or corporation purchasing and using water and water services supplied by the District.
- E.** "Customer line" means the pipe, stops and fittings on the customer's property into the premises served.
- F.** "Delinquent Account" means an account that is not paid when due.

## NEAH KAH NIE WATER DISTRICT

- G. "Distribution equipment" means pumps, valves, controls, power or other facilities and equipment used in distributing or treating water.
- H. "Distribution water main" or "main" means the pipe, minimum two inches in diameter, laid in a street or other established right-of-way or easement, to distribute water to customers through main lines.
- I. "District" means the Neah-Kah-Nie Water District which is a domestic water supply district formed under ORS Chapter 264.
- J. "Owner" or "property owner" means the holder of record title to real property or vendee under land sales contract.
- K. "Service line" means the pipe, valves, stops and fittings laid from the main line to the water meter at the edge of the customer's property.
- L. "Standard service" means an industry-standard 5/8" x 3/4" residential water meter.
- M. "User" means the owner of the property who is occupying and using the water supply or tenant of the owner who is using the water supplied by the District.
- N. "Water Availability Letter" shall mean a letter acknowledging the availability of water service that is issued by the District in response to an approved application for water service.

### **SECTION 3. Application for Service**

- A. Application for water service must be made and signed by the property owner or the owner's representative on printed forms provided by the District.
- B. The applicant shall have the burden of demonstrating eligibility for water service, that they are the legal owner of record of the property and that their property is within District boundaries, and that their requested water use is in compliance with the rules and regulations of the District.
- C. The District may require a deposit of not less than an amount equal to an estimated four (4) months' water service bill. A refund of the water service deposit shall occur when a customer shows a satisfactory credit performance for one year. A refund of the deposit shall occur upon the customer requesting discontinuance of service, provided that all outstanding bills are paid in full. The deposit may be applied to the final bill. If an account is shut off for non-payment, the deposit shall be held as security until the outstanding balance is paid. The deposit will only be applied to the outstanding balance when the account is closed and no further water service is required by the customer. Any deposit amount remaining after outstanding bills are paid off will be refunded to the customer.

### **SECTION 4. Connection Fee and Service Installation**

- A. At the time of application for a connection, the customer shall be required to pay the current System Development Charge and a connection fee. These fees cannot be paid prior to the submission of an application for a connection. Water connection may be considered by the District for approval only when the applicant provides the District with a complete water service application signed by the property owner(s), a valid building permit or, if the lot is vacant, final subdivision plat, and full payment.

## NEAH KAH NIE WATER DISTRICT

- B.** Unless specified by plumbing code or fire district requirements, the District will install a standard service. Larger services required by code or the fire district will be charged the System Development Charge in effect when the application is submitted.
- C.** Upon payment of the connection fee, the Customer shall be responsible for installing a service line from the residential structure to the property line. A separate service line direct from the water meter to the main by the most feasible route shall be provided and paid for each user by the District. Such installation shall include materials provided by the District, shall be performed by a licensed contractor approved by the District, and pursuant to plans approved by the District in advance. Service lines shall be extended by the District from the main only to the property line. The user shall be financially responsible for any further extension which shall be constructed in accordance with all applicable building, plumbing and sanitation codes of the State of Oregon.
- D.** Connection Fees for the District shall be established by resolution of the Board.

### **SECTION 5. Service Charges**

- A.** The fees and charges for the District water system shall be established by resolution in accordance with ORS 264.310 and ORS 264.312 (as amended).
- B.** Charges for water use shall include a fixed base rate, a system enhancement fee (described in Section 6 below) and metered water usage to be periodically reviewed and updated by the District. The charges shall be based on the cost of operation, maintenance and amortization of the system. The billing period shall be at least quarterly, and shall be set by resolution. The owner of the property shall be responsible for all charges for water service. Any proposed increase in the existing rates shall take effect only after a public hearing has been held, and after notice has been given to each user by the District in each water bill or by special mailing 30 days prior to the date of hearing, as provided in ORS 264.312.

### **SECTION 6. System Enhancement Fee**

A System Enhancement Fee will be charged and included in each bill as a rate surcharge to provide partial funding for the District's capital improvements. The System Enhancement Fee will be established by resolution of the Board.

### **SECTION 7. Payment of Fees**

- A.** All bills become delinquent if not paid within 30 days of the established due dates.
- B.** After 60 days of non-payment an account will be assessed a \$10 flat fee each month it remains in arrears.
- C.** Notice of delinquency will be mailed by Certified Mail, Return Receipt Requested to the last known address of the customer approximately 60 days after the billing date. A "Notice of Intent to Disconnect Water Service" shall instruct the customer to pay all past due charges and fees owed, plus an administrative fee per the District's Schedule of Fees, in full within 30 days. The notice will indicate a shut-off date and a Reconnect Fee per the District's Schedule of Fees.
- D.** All bills shall be the responsibility of the property owner.
- E.** Returned checks will subject the check issuer to an additional charge per the District's

## NEAH KAH NIE WATER DISTRICT

### Schedule of Fees.

- F. All accounts that are delinquent and unpaid for more than one year shall be classified as abandoned accounts. Such accounts cannot be reinstated until all delinquent charges and fees including interest and a Reconnect Fee are paid to reestablish service.

### **SECTION 8. Extensions**

- A. The District shall extend its distribution water mains, distribution equipment and service lines to approved new users upon receipt of the connection fee and payment in advance of the total estimated cost to the District. In no event shall the District be obligated to extend its water facilities for a user not approved for water service by the Board. Upon these facilities going into service a reconciliation to actual cost shall be made within 30 days of initiation of service. Main extensions shall become the sole property of the District.
  1. If two or more properties are involved, the District shall follow the procedure for reimbursement by the other property owners in ORS 264.320.
  2. Before an extension is authorized by the District, the property owner shall submit to the district such plans and specifications as required by the District for District approval. Such plans and specifications shall be prepared by an engineer duly authorized and licensed by the State of Oregon. Any plans for the extension of water mains shall conform to the District's Water Master Plan.
  4. Completed plans must be reviewed and approved by the Oregon Health Authority before any construction may begin. The cost of this review will be the responsibility of the property owner.
  3. Extensions of water mains shall be made only along dedicated County roads or other easements or rights-of-way satisfactory to the Board.
  4. No extension of a water main shall be authorized until the property owner files with the District the County building permit for the project or development and otherwise complies with this Ordinance and rules and regulations of the District.

### **SECTION 9. Leakage**

- A. Customers shall keep all pipes and fixtures of the customer lines in repair at their own expense and shall be liable for any leakage and all damages which may result from their failure to do so. When leaks are detected, the customer will be notified, and, if the necessary repairs are not made in a reasonable time, the water may be shut off and not turned on again until the repairs are made.
- B. Agents of the District are authorized to turn off water service and lock such service at the meter of unattended premises upon the discovery of water leaks caused by broken or defective pipes or fixtures. Water service shall not be turned back on until the property owner has installed a master water shut-off valve.
- C. A charge per the District's Fee Schedule shall be made to the property owner for turning the water off and on pursuant to subsections A or B of this section.

## NEAH KAH NIE WATER DISTRICT

### **SECTION 10. Metering and Billing**

- A.** The District may at any time install or remove a meter at the user's property line. Where water is supplied through a meter, the charge made to the user shall be based on the water measured by the meter and upon the meter rates established by the District. Should a meter become out of adjustment or for any other reason fail, a charge shall be made by the District to the user based on the average amount of use of the preceding three months.
- B.** All meters and other equipment furnished by the District will be maintained by the District and will remain its property.
- C.** Meters will be read at the time service is first established and thereafter on a bimonthly basis.
- D.** Should damage result to metering equipment from actions or willful neglect of the customer, the District will repair or replace such equipment and shall charge the customer for the costs incurred. Such charges shall be subject to the provisions of Section 7.
- E.** Bills showing separately the consumption and charges for monthly service will be billed bimonthly, , and will become delinquent if not paid within 30 days after the date of billing. No reduction of charges will be made by reason of loss of water due to waste caused by leakage or equipment of the customer. Users will be charged for water loss due to leakage or line breaks on the owner's side of the meter. An appeal process is available for considering extenuating circumstances. (See Section 21)
- F.** The District reserves the right to install such meters or devices as may be necessary to detect and prevent fraud or waste without notice to the customer. Whenever flat rate service is furnished for a special use and a demonstrated abuse of such service occurs, the District may meter such service and bill for water supplied.
- G.** The District will, upon written request, test any customer's meter without cost to such customer unless such tests are requested more often than once every twelve months. If request for testing of meters is made by the customer more often than once every twelve months, the District will charge the customer per the District's Fee Schedule for each such additional test.

### **SECTION 11. Ownership of Equipment**

- A.** All customer lines between the property line or meter and the outlets in the customer's premises shall be the customer's property and responsibility to maintain, unless by special agreement a customer's line is used as a main extension. All other water facilities and equipment, including but not limited to meters, mains, service lines, and distribution equipment, shall be under the ownership and control of the District.
- B.** Any reposition of a service line or meter after initial installation must be permitted by the District and shall be at customer expense.

### **SECTION 12. Connection Permit Required**

No plumber or other person shall be allowed to make connections with the mains or service lines, permanently or temporarily, or to any fire hydrant or neighboring service connection, or make any alterations in any conduit pipe or other fixture connecting therewith, or to connect pipes when they have been disconnected, or to turn off or on service to any premises,

## NEAH KAH NIE WATER DISTRICT

without permission of the District and payment of all required fees.

### **SECTION 13. Unauthorized Connection Penalty**

A penalty per the District's Fee Schedule shall be charged to anyone who connects to the District main or neighboring service connections without written District approval plus reimbursement of the District's cost to remove the connection.

### **SECTION 14. Unauthorized Turn-On**

After the water has been shut off by the District at the stopcock at the meter, if it should be turned on again by any person except an authorized representative of the District, an excavation may be made in the street, the water shut off at the tap in the main, and not turned on again until all payments in arrears, the cost of cutting and replacing the street, and an amount per the District's Fee Schedule for the expense of shutting off the water and turning it on, are paid.

### **SECTION 15. Service Controls**

A separate service line direct to the tap in the main shall be required for each residence that is supplied with water. Service pipes must be so placed that the supply to each residential premise shall be controlled by a separate shut-off valve placed within the property being served. A pressure controlling valve shall be installed on the line serving the customer's property. The cost of the valve and installation is the responsibility of the property owner.

### **SECTION 16. Repairs and Service Interruption**

- A.** Water service may, at any time, be shut off for emergency repair or other necessary purposes without notice. The District will not be responsible for any consequent damages to property of any person or injury to any person caused by such interruption of service. The District shall use its best efforts to give notice of the time and reason for shutoff to the consumers whose water is to be shut off.
- B.** The District shall be responsible for the repair of leaks that may occur on the main line and service lines of the District. Any leaks that occur on a water line on the user's side of the meter and the point of use are responsibility of the user. The user and property owner shall be notified and responsible for prompt repair of all leaks. If such leaks are not repaired immediately, the District may interrupt service to the line until repaired as provided in Section 16(A).

### **SECTION 17. Waste**

Water must not be allowed to run to waste through any faucet or fixture in order to prevent freezing, or kept running any longer than necessary for its proper use. No reduction will be made in the charges for water for want of supply or waste caused by freezing or leakage.

### **SECTION 18. Conflict of Provisions**

In case of conflict between any provisions of any rate schedule and these rules and regulations, the rate schedule shall apply.

### **SECTION 19. Appeals**

- A.** Any appeals concerning water rates or services, or interpretation or enforcement of this



## NEAH KAH NIE WATER DISTRICT

ordinance, must be made in writing and submitted to the District within 30 days of the decision, interpretation, or enforcement at issue, and shall be adjudicated by the District Board of Commissioners. In the event that the property owner requests such a hearing prior to shutting off water service, then service shall remain on until the hearing is held and a written decision is mailed or otherwise delivered to the property owner.

- B.** When a leak has been detected which has caused an inordinately high water bill to be charged a customer, the District may, at its discretion, adjust the bill for the cost of the water lost over and above the historical average water usage for that connection during that billing period of the year. This adjustment will only be granted if the leak is determined to have been accidental, the customer has demonstrated that the problem has been promptly fixed, and the customer has applied in writing to the District for such adjustment. If all the above conditions are met, the District's general manager is empowered to adjust the customer's water bill. If circumstances appear questionable, the general manager will refer the matter to the Board for consideration.

### **SECTION 20. New Subdivisions and Partitions**

- A.** In addition to complying with all other terms of this Ordinance as well as the other rules and regulations of the District, any property owner intending to subdivide or partition his/her/its property shall comply with the terms of this Section.
- B.** Prior to or contemporaneous with the submission of an application for water service and prior to preliminary plat approval, property owners of new subdivisions or partitions shall furnish the following documentation:
  - 1. Complete plans for proposed on-site water, utility, sanitation, storm water drainage, and fire suppression systems including service with meter boxes and standard fire hydrants to the specifications of the District.
  - 2. Complete plans for any required off-site main extensions or other facility or system improvement necessitated to provide service to the subdivision or partitioned properties.
- C.** The District may consider the option of paying for an amount of capacity beyond that needed for the subdivision or partition, but the District is not required to extend its water services infrastructure and capacity beyond that needed by the subdivision or partition.
- D.** Improvements may be made through the assessment procedure provided in ORS 264.362 through 264.394 when the District Board considers it necessary or upon petition of the owners of one-half of the property that benefits especially from the proposed improvement.
- E.** Applications for a Water Availability Letter shall not be reviewed by the District until the property owner submits a complete application for water service to the District and has also filed an application that is complete, save and except for a Water Availability Letter, with the Tillamook County Department of Community Development for the new subdivision or partition.

### **SECTION 21. Fire Protection**

The operation and funding of fire protection shall be as provided in ORS 264.340 through

264.349. The District shall install and maintain any equipment and facilities deemed necessary by the local Nehalem Bay Fire & Rescue District. Facilities and equipment normally associated with adequate firefighting protections include mains of an adequate size, fire hydrants, reservoirs of adequate capacity and pressure zone inter ties.

**SECTION 22. Improvement Program**

The District shall periodically develop and review a system improvement program, establishing priorities, funding plan and estimated timing of system improvements. A capital improvement reserve fund shall be established to make such improvements.

**SECTION 23. Repealer.**

Ordinance No. 2001-2002-6, and all amendments thereto, are hereby repealed. Ordinance 2017-01 is hereby repealed and replaced in its entirety by this ordinance.

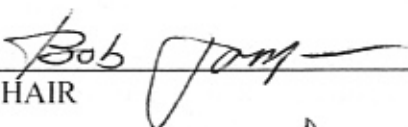
**SECTION 24. Enforcement.**


Violation of any section of this Ordinance shall subject the offender to a fine of \$250 per violation. Each day of violation shall constitute a separate infraction. This section is in addition to any other remedy previously provided in this ordinance. Violations of this ordinance shall be pursued as provided in ORS 198.600.

**SECTION 25. Emergency.**

Providing safe and sufficient water is a fundamental obligation of the Neahkahnie Water District. Therefore, protecting the integrity, quality and quantity of drinking water is paramount and necessary for the peace, health and safety of the people of the District. The District's area is in the process of development, and consequently there is an immediate need to ensure that sufficient procedural and substantive standards are in place for water connections and water usage in the District's area in order to protect the integrity and pristine quality of the District's water sources. An emergency is declared to exist, and this ordinance is effective upon its passage by the Board of the Water District.

Adopted: August 14, 2018

  
\_\_\_\_\_  
CHAIR

Attest:  
  
\_\_\_\_\_  
SECRETARY