



ORDINANCE NO. 2023-04

AN ORDINANCE EXTENDING AN EXISTING MORATORIUM ON NEW CONNECTIONS TO THE CITY WATER SYSTEM IN THOSE AREAS NORTH/NORTHEAST OF BOB'S CREEK FROM NORTH FORK ROAD (EXCLUDING LANDS IDENTIFIED AS RIVERVIEW MEADOWS PHASES 2 AND 3), AND EAST OF THE INTERSECTION OF NORTH FORK ROAD AND MCDONALD ROAD DUE TO LACK OF WATER SYSTEM ADEQUACY FOR AN ADDITIONAL SIX MONTHS; AND DECLARING AN EMERGENCY

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

WHEREAS, on November 14, 2022, the City Council adopted Ordinance 2022-02, declaring a moratorium based on lack of water adequacy with respect to water pressure deficiencies and inadequate fire flows to allow new water connections in certain mapped areas within the City limits as well as serving properties located outside the City limits, and

WHEREAS, on January 9, 2023, the City Council adopted Resolution 2023-02, adopting a corrective program, which sets forth solutions necessary to correct the problem creating the need for the moratorium under ORS 197.530; and

WHEREAS, Section 2 of Resolution 2023-02 and ORS 197.530(1) provides that upon adoption of a corrective program, the effective date of the moratorium adopted through Ordinance 2022-02 will expire on July 6, 2023 unless otherwise extended; and

WHEREAS, the City finds there is a demonstrated need to and prevent water pressure shortfalls that would occur if the moratorium does not remain in place; and

WHEREAS, pursuant to ORS 197.530(4), the City provided written notice to the Department of Land Conservation and Development on May 23, 2023, which is more than 14 days prior to the public hearing for adoption of this ordinance; and

WHEREAS, the City has made written findings justifying the need for an extension; and

WHEREAS, pursuant to ORS 197.530(2), on June 12, 2023, the City Council held a duly noticed public hearing on extending the existing moratorium based on lack of water system adequacy.

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

Section 1. Moratorium Extended.

Based on the findings set forth in Exhibit B, the moratorium based on lack of adequate water service infrastructure for new development is extended for the areas identified in the map attached as Exhibit A.

While this moratorium is in effect, all development shall be subject to the following notice and restrictions:

1. Property owners and representatives shall be notified by staff of the moratorium at the earliest opportunity either during pre-application conferences or through the County land use review process. However, the failure to provide notice shall not alter the development restrictions imposed by this moratorium.
2. The City shall continue to cooperate with the County in processing land use permit applications during the moratorium period, and if approved, appropriate conditions shall be imposed restricting development until the required water pressure necessary to serve the proposed development is in place.
3. No new water connection request may be issued until these pressure and fire flow deficiencies within the existing system are remedied in compliance with the state and local water pressure and fire flow standards and the moratorium is lifted for those areas.

Section 2. Term. This moratorium shall be effective until January 9, 2024, unless otherwise extended in accordance with state law.

Section 3. Effect on Unexpired Land Use Approvals. For properties subject to this moratorium that have an approved land use review that has not yet expired, the expirations date for the approved land use review shall be extended by the length of this moratorium and any moratorium extensions.

Section 4. Reporting. The City Engineer shall regularly report to the City Council on the impact of the moratorium on development and the fire flow and water pressure conditions.

Section 5. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

Section 6. Emergency. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

PASSED AND ADOPTED by the City Council on this 12th day of June 2023; and

APPROVED by the Mayor this 12th day of June 2023.

Phil Chick, Mayor

Attested:

Melissa Thompson-Kiefer, City Manager Pro Tem

First & Second Reading: June 12, 2023

Ayes: _____
Nays: _____
Abstentions: _____
Absent: _____

Adopted: June 12, 2023

Ayes: _____
Nays: _____
Abstentions: _____
Absent: _____

Exhibits:

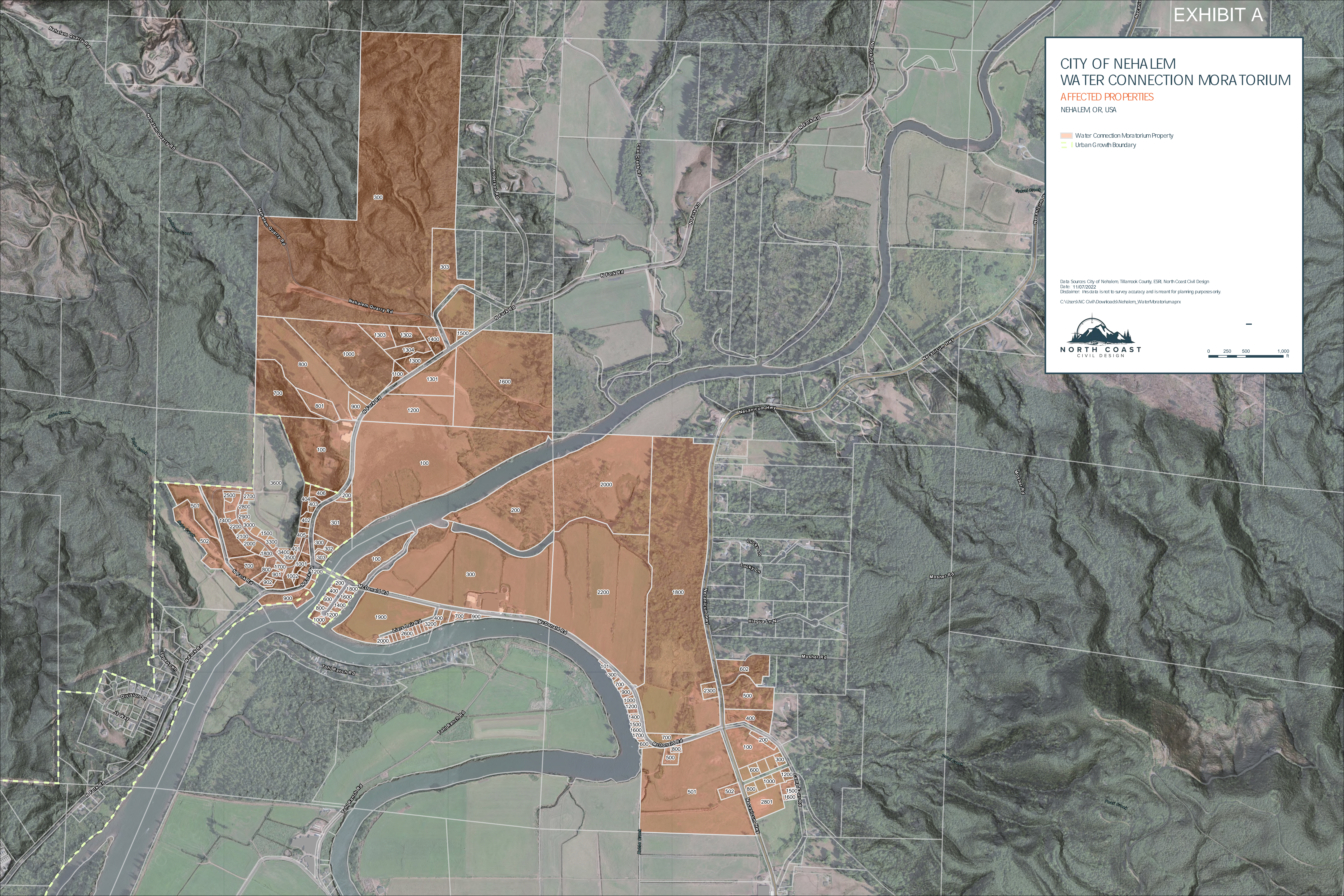
Exhibit A - Map identifying the areas affected by moratorium
Exhibit B – Findings

CITY OF NEHALEM WATER CONNECTION MORATORIUM

AFFECTED PROPERTIES
NEHALEM, OR, USA

- Water Connection Moratorium Property
- Urban Growth Boundary

Data Sources: City of Nehalem, Tillamook County, ESRI, North Coast Civil Design
Date: 11/07/2022
Disclaimer: This data is not to survey accuracy and is meant for planning purposes only.
C:\Users\NC\Civil\Downloads\Nehalem_WaterMoratorium.aprx





May 27, 2023

City of Nehalem
P.O. Box 143
Nehalem, OR 97131

Attn: City Manager, Melissa Thompson-Kiefer

Re: Update on Additional Water Connections Services

Dear Melissa,

The City of Nehalem, Oregon passed Ordinance No. 2022-02 to address the water system inadequacies and to declare a water system emergency for 6 months. We believe that the Moratorium needs to be continued, and this is the written justification for an extension.

As we have previously explained, an adequate water system is one that can maintain a pressure of at least 20 pounds per square inch (psi) at all service connections at all times and meets the City's minimum fire flow requirement for single family residential development of 1,000 gallons per minute (gpm) sustained for a minimum of 1-hour. OAR 333-061-0200(150) and 2015 Water Master Plan. A Technical Evaluation summary dated September 6, 2022 from this office summarized the existing water system deficiencies in the following finding:

“We know from 2 sets of recent hydrant flow tests, that while the hydrants along North Fork Road, McDonald Road or HWY 53 are operated, the pressure at nearby water services above elevation 110' are adversely affected and cannot sustain the required 20 psi. This includes all water services located in Riverview Meadows and other elevated services primarily west of North Fork Road. As mentioned above, these tests were conducted twice, once contracted by the City of Nehalem and once contracted by the developers of Riverview Meadows, with the same results of less than 20 psi for both sets of tests. These tests indicate that the system is currently operating beyond its capacity.”

In addition, the properties located along McDonald Road and Highway 53 currently have adequate pressures for residential use, approximately 75- 85 psi. Due to the length of the dead-end, non-looped water pipe, it is unlikely that new development will be able to meet the 1,000 gpm fire flow requirement.

Although the City has been diligently working on a corrective program (See North Coast Civil Design letter, dated December 30, 2023) to address these inadequacies, these conditions persist. Primarily, effort has been directed toward installation of a pressure check valve near North Fork Road, on the water main serving Riverview Meadows. A Contractor has been selected and has begun construction on the installation of this check valve (previously specified as a Pressure Sustaining Valve).

However, difficulties have cropped up, i.e., availability of the valve and vault production (supply chain issues). The Contractor has now received all parts and materials necessary to begin the project.

Now that the Contractor has the vault and valve assemblies, it will take approximately 14 days for the Contractor to prepare the assembly for installation.

After an adjustment of the operating points for the valve and testing period, the “normal” water service to Riverview Meadows will continue. With the installation of this check valve, water can only flow one-way through this valve and can no longer be “pulled” from the Riverview Meadow water system. As a result,

the high flows should no longer negatively impact Riverview Meadows water pressure, thus allowing the fire hydrants along North Fork Road to be brought back into normal service.

It is estimated that the pressure Check Valve Project should be fully operational by mid-June, 2023. Upon completion of the Check Valve Project, proper fire hydrant testing will be completed in the months of July and August. Testing will be coordinated and validated by the Engineer of Record, City, and Nehalem Bay Fire and Rescue at this time. Note on testing: Testing during the high use, summer period would provide good information for the water and fire departments.

Should the fire hydrant testing mentioned above indicate that adequate pressures cannot be provided to the existing water service customers, additional measurements and improvements will need to be taken, which may require further extension of the Water Moratorium.

The NC Civil Corrective Program letter mentioned at the outset, highlights some of the recommended improvements, (in no order) such as:

- Riverview Meadows Phase 2 / 3 planned water system improvements
- Potential corrective improvements, such as a Fire Department Substation Reservoir
- Tidelands Water Main
- Coal Creek Micro Treatment Plant

As is the case with the pressure check valve installation, each of these successive corrective measures should have testing that immediately follows the improvement. This specific testing then becomes the “baseline” for how far each additional measure should be made which would impact the decision for lifting of the moratorium.

Lifting of the Water Moratorium should only be done with the concurrence of the OHA-DWP, Nehalem Bay Fire and Rescue Service, City Water Department, and the Engineer of Record for the City.

Safe and adequate water service availability is always the goal.

Please feel free to reach out with any questions.

Sincerely,
North Coast Civil Design, LLC



Kyle Ayers, PE
Principle in Charge