

BY AUTHORITY

ORDINANCE NO. **3940**

COUNCILLOR'S BILL NO. **27**

SERIES OF 2018

INTRODUCED BY COUNCILLORS

A BILL

FOR AN EMERGENCY ORDINANCE PROVIDING FOR A 12-MONTH MORATORIUM ON THE ACCEPTANCE OF NEW DEVELOPMENT APPLICATIONS FOR PROJECTS THAT INCREASE SEWER DEMAND IN THE BIG DRY CREEK INTERCEPTOR SEWER

WHEREAS, wastewater from, generally, north of 92nd Avenue flows from Standley Lake to the Big Dry Creek Wastewater Treatment Facility through a large wastewater collection system known as the Big Dry Creek Interceptor Sewer (“BDCIS”). This BDCIS provides service to City of Westminster (“City”) customers in those areas depicted on Exhibit A, attached hereto and incorporated herein; and

WHEREAS, engineering analysis of the BDCIS indicates that it is at risk of unacceptable failure due to its age, condition, and capacity and cannot responsibly be stressed by unlimited development; and

WHEREAS, engineering analysis also indicates that the BDCIS does not have sufficient capacity to serve all of the applications that the City has currently received, however, the City does not issue a service commitment until building permit issuance, pursuant to Section 11-3-4 of the Westminster Municipal Code, and applicants with development within the BDCIS are advised that there may not be sufficient capacity in the BDCIS to issue them a service commitment; and

WHEREAS, failure of the BDCIS would present an unacceptable risk to the health, safety, and welfare of the citizens of the City, and therefore a temporary moratorium on the acceptance of new Development Applications, as defined below, is needed; and

WHEREAS, the duration of the moratorium imposed by this ordinance is reasonable in length and will be no longer than is required for the City to properly study and develop plans to address the threat to the BDCIS. The City anticipates that 12 months may be needed to accomplish these tasks; and

WHEREAS, owners and developers of real property in the area affected by this ordinance will not be unfairly prejudiced by the imposition of the temporary moratorium proposed by this ordinance; and

WHEREAS, the City Council has considered and tried to balance the expectations of applicants in its land use system with the need to responsibly protect the capacity and integrity of the BDCIS; and

WHEREAS, City Council finds and declares that an emergency exists and that it is necessary that this ordinance become effective immediately upon adoption at a single reading to preserve the public’s peace, safety and welfare.

NOW, THEREFORE, THE CITY OF WESTMINSTER ORDAINS:

Section 1. As of the time and date set forth in Section 5 below, a moratorium is hereby imposed on the City’s acceptance of new Development Applications, as defined below, for projects which, if approved, would increase sewer demand in the BDCIS.

Section 2. “Development Applications” under this moratorium shall mean applications for Preliminary Development Plans, Preliminary Development Plan amendments, Official Development Plans, Official Development Plan amendments, pre-application requests for Preliminary Development Plans and

Preliminary Development Plan amendments, and pre-application requests for Official Development Plans and Official Development Plan amendments, as defined and/or used in the Westminster Municipal Code.

Section 3. This moratorium shall not apply to existing approvals, accepted applications or accepted pre-application requests for Preliminary Development Plans, Preliminary Development Plan amendments, Official Development Plans, and Official Development Plan amendments, accepted or issued prior to the effective date of this ordinance and have not expired as described below, which pre-application requests shall be allowed to progress through Official Development Plan and Preliminary Development Plan consideration for approval. This moratorium shall also not apply to Preliminary Development Plan amendments and Official Development Plan amendments that do not add new buildings or additions to existing buildings. Preliminary Development Plan amendments and Official Development Plan amendments that add building(s), but do not increase sewer demand or flow into the BDCIS are also not subject to this moratorium.

Section 4. For the duration of the moratorium imposed by this ordinance, existing pre-applications, including those for which pre-application requests were submitted prior to the effective date of this ordinance, shall automatically expire and no longer be valid, if the applicant has failed to submit a completed Preliminary Development Plan or Official Development Plan application or completed amendments thereto within 6 months of the date of the pre-application meeting.

Section 5. The moratorium imposed by this ordinance shall commence as of 12:00 pm, on Tuesday, July 24, 2018, and shall expire 12 months thereafter, unless sooner repealed or modified.

Section 6. Because of the risk to the BDCIS associated with increased and continuing Development Applications, an emergency is declared to exist, and this ordinance is declared to be necessary for the immediate preservation of the public peace, health, and safety. Wherefore, this ordinance shall be in full force and effect upon adoption of this ordinance on July 23, 2018, by an affirmative vote of 6 of the members of the Council if 6 or 7 members of the Council are present at the meeting at which this ordinance is presented, or by an affirmative vote of 4 of the members of the Council if 4 or 5 members of the Council are present at the meeting at which this ordinance is enacted.

Section 7. All of the above recitals are incorporated herein.

Section 8. If any section, paragraph, clause, word, or any other part of this ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

Section 9. This ordinance shall be published in full within 10 days after its enactment.

INTRODUCED, READ IN FULL, AND PASSED AND ADOPTED AS AN EMERGENCY ORDINANCE this 23rd day of July 2018.

Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

City Clerk

City Attorney's Office