

**ORDINANCE NO. O2022-021**

**AN ORDINANCE** of the City Council of the City of Tumwater, Washington, removing properties located within the boundaries of the City of Tumwater from Hopkins Drainage Ditch District No. 2 as more particularly described herein.

**WHEREAS**, RCW 85.38.217 provides that any portion of a drainage district or drainage improvement district located within the boundaries of a first-class city operating a storm drain utility pursuant to RCW 35.67.030 may be removed from the drainage district or drainage improvement district by Ordinance of the city; and

**WHEREAS**, the City of Tumwater is a code city authorized by RCW 35A.11.020 and RCW 35A.21.160 to exercise the powers of any class of city not specifically denied to a code city; and

**WHEREAS**, the City of Tumwater operates a storm drain utility pursuant to Chapter 35.67 RCW; and

**WHEREAS**, Hopkins Drainage Ditch District No. 2 (the “District”) is a special purpose district organized under RCW 85.06 for the purpose of operating a drainage system known as Hopkins Ditch since 1901; and

**WHEREAS**, the District passed a resolution on September 24, 2022, expanding the boundaries of the District by annexing 599 properties within the City of Tumwater (“the Tumwater Properties”) into the District; and

**WHEREAS**, the District intends to assess the Tumwater Properties over \$400,000 to pay for District improvements outside the City and deferred maintenance on facilities that do not serve the Tumwater Properties; and

**WHEREAS**, the District has failed to provide evidence that the Tumwater Properties are receiving services or benefits from the facilities of the District as required by Chapter 85.32 RCW; and

**WHEREAS**, the City maintains sufficient capacity to manage and maintain stormwater utility services for all of the Tumwater Properties in compliance with local, state, and federal requirements, and in conformance with the City’s 2018 Comprehensive Stormwater Management plan; and

**WHEREAS**, the Tumwater Properties pay stormwater utility charges to the City of Tumwater to maintain the stormwater management facilities serving said properties; and

**WHEREAS**, the removal of the Tumwater Properties will not result in the impairment of any contract nor remove any existing liability or obligation to finance district improvements that serve the area so removed; and

**WHEREAS**, the Public Works Committee discussed the removal of the Tumwater Properties from the District at its September 22, 2022 meeting and recommended a public hearing be held; and

**WHEREAS**, the City provided written notice of the public hearing to the general public including residents of the District to be removed on September 26, 2022; and

**WHEREAS**, the City Council discussed the matter at its September 27, 2022 meeting and approved the Ordinance move forward to a public hearing; and

**WHEREAS**, a public hearing was held by the City Council on October 4, 2022, giving the public, including residents of the portion of the District to be removed, the opportunity to respond to the action; and

**WHEREAS**, action must be taken by the City to remove the Tumwater Properties immediately from the District to promote the objectives of this Ordinance and preserve the health, safety, property, and general welfare of the residents of the City because the District intends to approve an assessment upon the Tumwater Properties prior to the statutory filing deadline;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:**

**Section 1.** The Tumwater Properties as described and depicted on Exhibit A attached hereto and incorporated herein by reference are hereby removed from the District.

**Section 2.** The Water Resources & Sustainability Director and City Attorney are authorized to take any and all actions necessary to carry out the removal of the Tumwater Properties located within the boundaries of the City from the District.

**Section 3. Corrections.** The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not

Ordinance No. O2022-021 - Page 2 of 4

limited to, the correction of scrivener/clerical errors, references, Ordinance numbering, section/subsection numbers and any references thereto.

**Section 4. Ratification.** Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

**Section 5. Severability.** The provisions of this Ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the Ordinance, or the validity of its application to other persons or circumstances.

**Section 6. Declaration of Emergency — Effective Date.** For the reasons set forth above, and to promote the objectives stated herein, the City Council finds that a public emergency exists, necessitating that this Ordinance take effect immediately upon its passage by unanimous vote of the City Council in order to protect the public health, safety, property, and general welfare. This Ordinance shall take effect and be in force immediately upon unanimous passage by the City Council.

**Section 7. Alternate Effective Date.** If this Ordinance does not become effective immediately as provided in Section 6, then this Ordinance shall become effective thirty days after passage, approval, and publication as provided by law.

ADOPTED this 4<sup>th</sup> day of October, 2022.

CITY OF TUMWATER

---

Debbie Sullivan, Mayor

ATTEST:

---

Melody Valiant, City Clerk

APPROVED AS TO FORM:

---

Karen Kirkpatrick, City Attorney

Published:\_\_\_\_\_

Effective Date:\_\_\_\_\_