



RESOLUTION NO. 2026-24

A RESOLUTION EXTENDING A MORATORIUM ON DEVELOPMENT PURSUANT TO ORS 197.505 TO 197.540 BASED ON LIMITED SANITARY SEWER CAPACITY

THE CITY OF SANDY, CLACKAMAS COUNTY, OREGON, FINDS AS FOLLOWS:

WHEREAS, pursuant to the federal Clean Water Act of 1972, the City of Sandy sanitary sewer collection and treatment system is subject to a National Pollutant Discharge Elimination System (NPDES) permit (the Permit) issued to the City by the Oregon Department of Environmental Quality (DEQ) under authority granted by the U.S. Environmental Protection Agency (EPA); and

WHEREAS, the Permit limits the types and amounts of discharges from the City treatment plant into Tickle Creek; and

WHEREAS, population growth and development in the City has increased the demand on the available capacity at the treatment plant; and

WHEREAS, inflow and infiltration (I&I) into the City collection system (i.e. sewer pipes) from surface water has also increased the demand on available treatment plant capacity; and

WHEREAS, the combination of I&I and increased base flows has caused discharges from the treatment plant to violate permitted NPDES levels during certain weather events; and

WHEREAS, the City has engaged in a significant program of investigation, remediation, and repair of the collection system to reduce the amount of I&I and the corresponding demand on the treatment facilities; and

WHEREAS, the City has also recently amended the Wastewater Facilities Master Plan to provide for the design, financing and construction of additional treatment facilities to improve the capacity of the City's wastewater system in the long term; and

WHEREAS, the aforementioned permit violations resulted in enforcement proceedings from DEQ and EPA, which were resolved via the consent decree entered in the United States District Court for the District of Oregon on September 11, 2023 ("Consent Decree"); and

WHEREAS, the terms of the Consent Decree required the City to perform a "stress test" and comprehensive capacity analysis to determine the capacity of the City's existing sanitary sewer system based on work the City had already performed to improve capacity; and

WHEREAS, the Consent Decree also required the City to limit new connections to the City's sanitary sewer system, and modifications to existing connections to the City's sanitary sewer system that increase flows, to no more than 300 equivalent residential units (ERUs) until the comprehensive capacity analysis results were approved by EPA and DEQ, at which point the 300 ERU cap would be replaced with a cap determined by the results of the comprehensive capacity analysis; and

WHEREAS, the City submitted the results of the comprehensive capacity analysis to EPA and DEQ on September 29, 2023, which resulted in a conditional approval decision on April 11, 2024, authorizing the City to immediately access 270 additional ERUs above and beyond the 300 ERUs previously available, and to access 190 additional ERUs upon the completion of certain specified actions by the City and approval by EPA and DEQ; and

WHEREAS, upon completion of the actions described in the conditional approval, and further approval by EPA and DEQ, the City anticipates that more capacity will become available and additional development projects will be allowed to connect to the sanitary sewer system and add increased flows through existing connections; and

WHEREAS, the Consent Decree requires the City to take such actions as are necessary to meet the above obligations, including enactment of a development moratorium; and

WHEREAS, while negotiations with EPA and DEQ relating to the Consent Decree were ongoing, the City enacted a development moratorium via Resolution 2022-24 on October 3, 2022, and extended that moratorium via Resolution 2023-07 on March 20, 2023 (the “First Moratorium”); and

WHEREAS, upon approval of the Consent Decree by City Council, the City repealed the First Moratorium and enacted a new development moratorium with Resolution 2023-27 on June 20, 2023, and extended that moratorium to June 20, 2024, via Resolution 2023-34 on November 20, 2023 (the “Second Moratorium”); and

WHEREAS, on June 3, 2024, the City Council adopted Resolution 2024-11, repealing the Second Moratorium and enacting a new development moratorium with increased available capacity and other new terms designed to facilitate development, including the creation of an ERU allocation program, and extended that moratorium to June 3, 2025, via Resolution 2024-24 on December 2, 2024 (the “Third Moratorium”); and

WHEREAS, on June 2, 2025, the City Council adopted Resolution 2025-14, repealing the Third Moratorium and enacting a new development moratorium with terms designed to facilitate development, including providing more flexibility in the ERU reassignment program for economic development activities and allowing partitions in limited circumstances, and including some minor clarifications, and extended that moratorium to June 2, 2026, via Resolution 2025-39 on November 17, 2025 (the “Fourth Moratorium”); and

WHEREAS, on May 18, 2026, the City Council adopted Resolution 2026-04, repealing the Fourth Moratorium and enacting a new development moratorium with terms that included a Development Allocation Program designed to provide a framework for distribution of wastewater system capacity to developments as it becomes available in the future (the “Fifth Moratorium”); and

WHEREAS, the Fifth Moratorium is scheduled to expire on December 1, 2026; and

WHEREAS, the City has made significant progress in its efforts to alleviate the problems giving rise to the Fifth Moratorium, and to obtain the additional 190 ERUs described in the April 11, 2024, conditional approval from EPA and DEQ; nevertheless, because of the extent of the improvements needed to obtain those ERUs, as well as to fully alleviate the problems giving rise to the need for the moratorium, those problems still exist; and

WHEREAS, the City Council therefore has determined it necessary to extend the expiration date of the Fifth Moratorium and Resolution 2026-04 by six additional months, to June 1, 2027; and

WHEREAS, as additional capacity becomes available, whether as described in the April 11, 2024, conditional approval from EPA and DEQ, through relinquishment of ERUs under the allocation program as described in the Fifth Moratorium, or otherwise, the City Council anticipates that additional development projects will be allowed to connect to the sanitary sewer system, and the City Council intends to revisit the terms of the moratorium as needed; however, because sufficient capacity to eliminate the moratorium entirely may not become available within the next six months, the City Council anticipates it may need to further extend the moratorium or enact a replacement moratorium with different terms when additional information and/or capacity become available; and

WHEREAS, this Resolution is authorized by ORS 197.505 to 197.540.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SANDY:

Section 1: The expiration date of the May 18, 2026, moratorium and Resolution 2026-04 are hereby extended to June 1, 2027.

Section 2: All terms of the May 18, 2026, moratorium and Resolution 2026-04, other than the expiration date, shall remain in full force and effect.

Section 3: The City Council shall review the moratorium and determine whether there is a need to extend, revise, or repeal it no later than June 1, 2027.

Section 4: This Resolution is based on the recitals above and the findings of fact set forth in the attached Exhibit A.

Section 5: This Resolution is effective on the date it is adopted by the City Council.

This resolution is adopted by the City Council of the City of Sandy this 2nd day of November, 2026.

Kathleen Walker, Mayor

ATTEST:

Jeffrey Aprati, City Recorder