

Resolution No. 607-26

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

THE CITY OF DONALD, MARION COUNTY, OREGON, FINDS AS FOLLOWS:

WHEREAS, pursuant to the federal Clean Water Act of 1972, the City of Donald sanitary sewer collection and treatment system is subject to a Water Pollution Control Facilities (WPCF) permit (the Permit) issued to the City by Oregon Department of Environmental Quality (DEQ) under authority granted by the U.S. Environmental Protection Agency (EPA); and

WHEREAS, the Permit circumscribes the time, place and manner for treatment of sanitary sewer effluent; and

WHEREAS, population growth, development in the City and demand from the Fargo Interchange Service District has increased the demand on the available capacity of the treatment plant; and

WHEREAS, the City is obligated to treat increased flows during certain weather events which threaten discharges from the treatment plant in violation of permitted WPCF levels; and

WHEREAS, in addition to the need for additional wastewater treatment capacity, the City projects that it will need to develop additional drinking water capacity to serve the projected increase in City population growth from 1123 citizens in 2025 to 2335 citizens residing in residential development already approved. Accordingly, the City Water Facilities plan indicates that the City will need to expand its peak drinking water capacity from 303,396 gallons per day to 901,310 gallons per day, and that there currently remains water capacity to provide drinking water for only 18 additional equivalent dwelling units (EDUs); and

WHEREAS, beginning in 2018 the City and GK Machine ("GK") and Gary Grossen Properties LLC ("GGP") joined in an initiative to develop local, affordable worker housing to employees of GK Machine and other employers, in the form of a planned unit development ("PUD") named Harvest Gardens Homestead, to be built on property outside the City limits of the City of Donald; and

WHEREAS, in order to further the affordable worker housing initiative, the City, GK and GGP and entities affiliated with them, undertook the following:

- A. On July 12, 2018 the Donald City Council enacted Ordinance No. 171-2018, amending the text and map of the City's Comprehensive Plan to expand the City of Donald Urban Growth boundary by 87.6 acres, of which 76.7 acres were dedicated to residential land supply, and 10.9 acres for public land; and
- B. The City updated its Master Plans for both the City's water and wastewater facilities in order to accommodate an additional 346-430 housing units ("EDUs") which the City anticipates will be generated by the Plan amendment. Specifically Harvest Gardens proposed to build 297 single family homes and 49-133 multi-family units. Absent expansion the City only had wastewater treatment capacity for an additional 49 EDUs; and

WHEREAS, in order to accommodate the build-out of Harvest Gardens, it is necessary to increase the capacity of both the City's water supply and wastewater treatment facilities in order to supply services to the proposed housing development; and

WHEREAS, the City has entered into a letter of Intent with the developers of Harvest Gardens 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, as follows: the City will build a new 10 acre storage lagoon to accept an estimated 130,000 gpd of effluent from Harvest Gardens, a reclaimed water irrigation line from the wastewater treatment plant (WTP) to the Twin Springs nursery, a reclaimed water pump station, and miscellaneous upgrades at the WWTP at a total cost of \$6.89 million. The City owns land suitable for the placement of a new sewer lagoon that is adjacent to the existing wastewater treatment plant, however, the placement of a new lagoon will occupy approximately 12 acres of irrigable land on which City disperses treated effluent as a phase of its wastewater treatment. As a result, the City must both replace the City-owned irrigated land lost to lagoon construction, and locate additional irrigable property to receive the regular draw-down of the City's new lagoon, as required by the City's DEQ permit; and

WHEREAS, the location and manner of dispersing effluent through irrigation is determined in large part by the City's WPCF wastewater permit, which circumscribes soil type, runoff requirements, eligible crops and absorption rates by season. Harvest Gardens proposes to supply up to 200 acres of additional acreage qualified for wastewater irrigation through long-term irrigation contracts with two related entities, Gary Grossen Property and GRC Land Holdings LLC, the owners of seven parcels accessible to the City's wastewater treatment plant; and

WHEREAS, the City is obligated by contract with the Fargo Interchange Service District ("District") to treat a minimum of 50,000 gallons per day (gpd) of the District's sanitary sewerage, up to a total of 200,000 gpd. The contract with the District provides in pertinent part that the District is obligated to fund expansions to the City's sewage treatment plant when, after notice by the City, combined City and District flows reach 80% of the then-existing treatment plant capacity. The City has given notice to the District of the need for

plant expansion. The District disputes the obligation, and the matter has been submitted to arbitration; and

WHEREAS, the City has made progress toward securing and funding system upgrades necessary to meet long term capacity and compliance needs, the City has encountered substantial, new DEQ requirements in connection with the renewal of its WPCF wastewater permit which present an unanticipated and substantial regulatory constraint for lifting the moratorium. Specifically, in its review of the City's WPCF permit, DEQ is now requiring revisions to the City's Recycled Water Use Plan (RWUP) to demonstrate adequate irrigable land capacity to beneficially reuse all treated effluent generated under current and future development conditions. To meet this standard, the City must 1) quantify total effluent flows generated by the City at full projected buildout; 2) demonstrate that the City has secured access to sufficient acreage of approved irrigable land capable of receiving reclaimed water at DEQ-approved application rates; 3) provide DEQ with documentation, including leases, maps, site evaluations, soil data, and monitoring, demonstrating that the irrigable land is viable for irrigation, meets DEQ reuse standards, and will not cause groundwater contamination; and 4) revise the City's existing RWUP to include the new, additional, and required acreages, prescribe management practices for those lands, develop a methodology for monitoring compliance, and conceive a contingency strategy to ensure ongoing compliance. The City historically has conducted DEQ-approved irrigation on lands owned by the City and is in the process of securing additional acreages to meet the requirements of approved, future development. However, the City does not currently possess confirmed, available irrigable land to meet DEQ's new land requirements, and until such additional, qualified and approved land is secured, the City cannot show DEQ compliance for future growth-related effluent. Separately, the City is in the process of conducting an "outfall study" to determine long-term discharge and reuse strategies necessary for DEQ approval. It is anticipated that it will take two years to secure DEQ permit renewal approval, and an additional two years to design, permit, and construct the infrastructure following outfall permit approval; and

WHEREAS, build-out of the expanded sewage treatment plant and additional City drinking water capacity is not anticipated to be available until 2028 at the earliest; and

WHEREAS, upon completion of plant expansion and approval by EPA and DEQ, the City anticipates that additional capacity will become available and additional development projects will be allowed to connect to the sanitary sewer and drinking water systems and add increased flows through existing connections; and

WHEREAS, until the plant expansion is accomplished, the lack of available sewage treatment plant and water plant capacity requires the City to take such actions as are necessary to meet the above obligations, including the extension of the current development moratorium; and

WHEREAS, the moratorium imposed by this Resolution is intended to meet the City's obligations, conditions, and standards for compliance with the City's WPCF wastewater permit and the oversight and regulation by EPA and DEQ, in addition to and its contractual obligations as well as to pause the approval of additional development that will require new

connections to the City's sanitary sewer system and water system, until such time as sufficient additional capacity in the City's wastewater system and water system is achieved; and

WHEREAS, the building moratorium that was authorized by City of Donald Resolution 604-25 is scheduled to expire on January 8, 2026; and

WHEREAS, there is a need to extend the moratorium for an additional period in order for the City to conduct additional, comprehensive capacity analysis, secure DEQ approvals, design the approved plant expansion, and obtain funding. The City Council has therefore determined it necessary to extend the expiration date of the July 8, 2025 moratorium and Resolution 604-25 by six additional months, to July 8, 2026; and

WHEREAS, because sufficient capacity to eliminate the moratorium may not become available within the next six months, the City Council anticipates that it may need to further extend the moratorium or enact a replacement moratorium with revised terms when additional information, approvals and/or capacity becomes available; and

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

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF DONALD RESOLVES THAT:

Section 1 The expiration of date of the July 8, 2025 moratorium and Resolution 604-25 are hereby extended to July 8, 2026.

Section 2 All terms of the July 8, 2025 moratorium and Resolution 604-25, 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 July 8, 2026.

Section 4 This Resolution 607-26 is based upon 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 Common Council of the City of Donald and approved by the Mayor this 6th day of January, 2026.

DATE: January 6, 2026

[REDACTED]
James Houdyshell, Mayor

ATTEST by City Manager this 6th day of January 2026

[REDACTED]
Eric Underwood, City Manager

EXHIBIT A

FINDINGS OF FACT

1. These findings are intended to supplement the findings stated in the Recitals to Resolution 607-26. They are also intended to supplement the findings and recitals in and attached to Resolution 604-25, which are incorporated herein by reference.
2. ORS 197.530 provides:

- (a) A moratorium adopted under ORS 197.520(2) may be extended provided the City adopting the moratorium holds a public hearing on the proposed extension and adopts written findings.

Finding: The City Council held a public hearing on January 6, 2026 on the proposed Resolution extending the moratorium and these Findings of Fact. These Findings of Fact and the recitals in Resolution 607-26 are "written findings" that satisfy the requirement for findings.

(b) The findings must verify that the problem giving rise to the moratorium still exists.

Finding: The City has made progress toward designing securing and funding system upgrades initially projected to meet long term capacity and compliance needs, in the course of requesting approval from DEQ of the proposed system upgrades, and renewing the City's WPCF permit, the City encountered substantial, new DEQ requirements which present an unanticipated and substantial regulatory constraint for lifting the moratorium. Specifically, in its review of the City's WPCF permit, DEQ is now requiring revisions to the City's Recycled Water Use Plan (RWUP) to demonstrate adequate irrigable land capacity to beneficially reuse all treated effluent generated under current and future development conditions. To meet this standard, the City must 1) quantify total effluent flows generated by the City at full projected buildout; 2) demonstrate that the City has secured access to sufficient acreage of approved irrigable land capable of receiving reclaimed water at DEQ-approved application rates;

3) provide DEQ with documentation, including leases, maps, site evaluations, soil data, and monitoring, demonstrating that the irrigable land is viable for irrigation, meets DEQ reuse standards, and will not cause groundwater contamination; and 4) revise the City's existing RWUP to include the new, additional, and required acreages, prescribe management practices for those lands, develop a methodology for monitoring compliance, and conceive a contingency strategy to ensure ongoing compliance. The City historically has conducted DEQ-approved irrigation on lands owned by the City, and is in the process of securing additional acreages to meet the requirements of approved, future development. However, the City does not currently possess confirmed, available irrigable land to meet DEQ's new land requirements, and until such

additional, qualified and approved land is secured, the City cannot show DEQ compliance for future growth-related effluent. The City is in the process of conducting an “outfall study” to determine long-term discharge and reuse strategies necessary for DEQ approval. It is anticipated that it will take two years to secure DEQ permit renewal approval, and an additional two years to design, permit, and construct the infrastructure following outfall permit approval.

(c) The findings must demonstrate that reasonable progress is being made to alleviate the problem giving rise to the moratorium.

Finding: Since July 14, 2020, the City has attempted to secure a development agreement with Harvest Gardens to fund sewer plant expansion and has initiated Arbitration to compel the funding of sewer plant expansion in accordance with its contract with the Fargo Interchange Service District. During the same period, City staff has continuously asked DEQ to circumscribe and quantify DEQ's new conditions for renewal of the City's WCPF permit, and has undertaken the required “outflow study,” and has begun the process to identify additional, qualified irrigable acreage to meet DEQ's “7/10” net irrigation rate standard. Such DEQ approval is a prerequisite to designing and funding the expanded sewer system. Although work remains to be done, the City has made great progress in the past six months. This criterion is met.

(d) The Findings must set a specific duration for the renewal of the moratorium. No single extension may be for a period longer than six months, and no moratorium shall be extended more than two times.

Finding: The duration of the renewal is six months, ending July 8, 2026. This is the first extension of the July 8, 2025 moratorium.

(e) Any City considering an extension of a moratorium shall give the Department of Land Conservation and Development (DLCD) at least 14 days' notice of the time and date of the public hearing on the extension.

Finding: The City emailed notice to DLCD on December 19, 2025. This criterion is satisfied.

3. This Resolution is based on and directly implements state law. There are no applicable goals and policies in the Donald Comprehensive Plan.