

Resolution No. 604-25

A RESOLUTION APPROVING 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, absent storage capacity, threaten discharges from the treatment plant in violation of permitted WPCF levels; and

WHEREAS, the City currently has no wastewater treatment capacity to serve future development in the City, to meet its contract with the Fargo Interchange Service District, and to store and treat increased flows during certain weather events; and

WHEREAS, beginning in 2017 the City and GK Machine ("GK") and Gary Grossen Properties LLC ("GGP") joined in an initiative along with State and County partner agencies to develop local, affordable workforce housing for employees of GK Machine and other employers; and

WHEREAS, in order to further the affordable workforce 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 (UGB) by 87.6 acres, of which 76.7 acres were dedicated to residential land supply, and 10.9 acres for public land; and
- B. On July 14, 2020, the Donald City Council enacted Ordinance No. 177-2020, annexing 61 acres into the City limits, and applied residential zoning in preparation for residential development, as described in the concurrent Harvest Gardens Homestead Planned Unit Development (PUD).

- C. On July 14, 2020 the Donald city Council approved concurrent Subdivision and Planned Unit Development applications for "Harvest Gardens Homestead PUD," a 299-lot PUD subdivision, proposing 297 single-family homes, one multi-family pad for between 49-133 units, and a commercial pad limited to two (2) acres, with neighborhood amenities including community gardens, open space, play area, walking paths, community center and event space.
- D. The City updated its Master Plans for both the City's water and wastewater facilities in order to accommodate an additional 346-430 EDUs which the City anticipates will be generated by the build-out of Harvest Gardens Homestead PUD and other projected growth within the incorporated City limits. The Donald Wastewater System Master Plan Amendment is dated July, 2021, and the Donald Wastewater Facilities Plan Amendment is dated October 2021. Absent expansion, the City only had wastewater treatment capacity for an additional 49 EDUs, all of which have since been allocated to 49 new homes constructed within the Harvest Gardens Homestead PUD; and

WHEREAS, in order to accommodate the build-out of Harvest Gardens PUD, it is necessary to increase the capacity of the City's 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 PUD 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 (WWTP) 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, build-out of the expanded sewage treatment plant is not anticipated to be available until 2030; 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 system and add increased flows through existing connections; and

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

WHEREAS, the moratorium imposed by this Resolution is intended to meet the City's contractual obligations and to prevent the approval of additional development that will require new connections to the City's sanitary sewer system or modifications to existing connections to the City's sanitary sewer system that increase flows, until such time as sufficient additional capacity in the City's wastewater system is achieved; 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 City of Donald shall not approve nor issue permits allowing connection to the City's wastewater treatment system for a land use application or other application for approval of development that is submitted on or after the effective date of this Resolution if the development will require a new connection to the City sanitary sewer system or will result in increased flow through an existing connection to the City's sanitary sewer system before sufficient wastewater treatment capacity is available.

Section 2 Section 1 of this Resolution applies to the following types of land use applications or other similar application as determined by the City Manager:

- a. Comprehensive plan or zoning map amendment.
- b. Subdivision.
- c. Partition.
- d. Replat that results in a new lots.
- e. Site Design Review that will require a new connection or increased flows through an existing connection if approved.
- f. Structural Permits that will require a new connection or increased flows through an existing connection if approved.
- g. Conditional Use Permit that requires a new connection or will result in increased flows through an existing connection.

Section 3 Section 1 of this Resolution does not apply to the following types of land use applications or other similar application as determined by the City Manager.

- a. Property Line Adjustment.

- b. Conditional Use Permit without a new connection and which will not result in increased flows through an existing connection.
- c. Food cart permit when waste water is self-contained.
- d. Tree permit.
- e. Replat that does not create a new lot.
- f. Street or alley vacation.
- g. Similar Use or Code interpretation.
- h. Development that does not connect to the City sanitary sewer, as allowed under City code and other applicable law.
- i. Structural Permits that will not require a new connection or increased flows through an existing connection if approved.
- j. City projects described in a facility plan or master plan.
- k. Annexations.
- l. Preapplication permits.
- m. Sign Permits.
- n. Business Licenses.

Section 4 During the time this Resolution is in effect, the Planning Department will not approve any new connections to the City's sanitary system unless capacity is created by the abandonment of existing connections or capacity is increased as a result of sanitary system plant expansion.

Section 5 The City Council shall review this Resolution and determine whether there is a need to extend or repeal the moratorium it establishes based on the results of the comprehensive capacity analysis after such results are approved by EPA and DEQ, or in any event not more than six months after the effective date of this Resolution.

Section 6 This Resolution is based on the recitals above and the Findings of Fact set forth in the attached Exhibit A.

Section 7 This Resolution is effective on the date it is adopted by the City Council and shall remain in effect for a period of six months, unless earlier extended or repealed.

This Resolution is adopted by the Common Council of the City of Donald and approved by the Mayor this _____ day of _____, 2025.

Alan Olsen, Council President

Eric Underwood, City Manager

EXHIBIT A

FINDINGS OF FACT

1. These findings are intended to supplement the findings stated in the Recitals to Resolution 184-2025.

2. ORS 197.520 provides:

- (1) No city, county or special district may adopt a moratorium on construction or land development unless it first:

- (a) Provides a written notice to the Department of Land Conservation and Development at least 45 days prior to the final public hearing to be held to consider the adoption of the moratorium;

Finding: The City emailed notice to DLCD on May 22, 2025, which was at least 45 days prior to the first public hearing by the Donald City Council, scheduled for Tuesday, July 8, 2025. This criterion is satisfied.

- (b) Makes written findings justifying the need for the moratorium in the manner provided for in this section; and

Finding: The findings stated in the Recitals to Resolution 604-25 and this Exhibit A are written findings justifying the need for the moratorium. This criterion is satisfied.

- (c) Holds a public hearing on the adoption of the moratorium and the findings which support the moratorium.

Finding: The City Council held a hearing on the adoption of the moratorium and the findings during a duly noticed public meeting on Tuesday, July 8, 2025. This criterion is satisfied.

- (2) For urban or urbanizable land, a moratorium may be justified by demonstration of a need to prevent a shortage of public facilities which would otherwise occur during the effective period of the moratorium. Such a demonstration shall be based upon reasonably available information, and shall include, but not be limited to, findings:

Finding: The land affected by this moratorium is the entire city limits of the City of Donald, which is urban or urbanizable land. The basis for the moratorium is a need to prevent a shortages of public facilities which would otherwise occur during the effective period of the moratorium. This criterion is satisfied.

- (a) Showing the extent of need beyond the estimated capacity of existing public facilities expected to result from new land development, including identification of any public facilities currently operating beyond capacity, and the portion of such capacity already committed to development;

Finding: Even before taking into consideration any need which may exist beyond the development represented by applications for land use approval that were submitted prior to July 8, 2025, the wastewater system capacity already conditionally committed to development, for purposes of ORS 197.520(2)(a), exceeds the capacity of existing public facilities. This criterion is satisfied.

- (b) That the moratorium is reasonably limited to those areas of the city, county or special district where a shortage of key public facilities would otherwise occur; and

Finding: The City sanitary sewer system serves the entire City. Therefore, the moratorium must apply to the entire City. This criterion is satisfied.

- (c) That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining public facility capacity.

Finding: The City anticipates more capacity becoming available based on the results of the Wastewater Facilities Master Plan, and the moratorium will be revisited as needed to ensure any such capacity will be made available to address additional housing and economic development needs. Moreover, as further capacity becomes available as a result of improvements to the collection and treatment systems, the City also intends that this capacity will be made available to address additional housing and economic development needs.

The vast majority of the land use applications submitted prior to July 8, 2025, relate to housing. This criterion is satisfied.

3. ORS 197.530 provides:

- (1) A city, county or special district that adopts a moratorium on construction or land development in conformity with ORS 197.520(1) and (2) shall within 60 days after the effective date of the moratorium adopt a program to correct the problem creating the moratorium. The program shall be presented at a public hearing. The city, county or special district shall give at least 14 days' advance notice to the Department of Land Conservation and Development of the time and date of the public hearing.

Finding: Resolution 604-25 identifies the current plant expansion program already underway as the City's program to correct the problem creating the moratorium. It is adopted simultaneously with adoption of the moratorium. This program was presented

at a public hearing under consideration of Resolution 604-25 on July 8, 2025. Notice of this public hearing was provided to DLCD via email on May 22, 2025. This criterion is satisfied.

(2) No moratorium adopted under ORS 197.520(2) shall be effective for a period longer than six months from the date on which the corrective program is adopted.

Finding: The effective period for this moratorium is six months. This criterion is satisfied.

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

Finding: This Resolution is based upon and directly implements state law.