



Legislation Text

File #: 15-520, **Version:** 1

Ordinance No. 15-1015, Adopting the Second Six-Month Extension to the Existing Moratorium on Land Development and Building and Sewer Permit Approvals in Certain Areas within Oregon City due to a Lack of Sanitary Sewer System Capacity and Declaring an Emergency

RECOMMENDED ACTION (Motion):

Approve and adopt Ordinance No. 15-1015 declaring a second six-month extension to the existing moratorium on land development and building and sewer permit approvals in certain areas within Oregon City due to a lack of sanitary sewer system capacity and declaring an emergency.

BACKGROUND:

The City of Oregon City's new Sanitary Sewer Master Plan (SSMP) became effective November 1, 2014. During the course of the update of the master plan, the City's consultant, Brown and Caldwell (B&C), evaluated the City's sanitary sewer system. The SSMP provides detailed collection system modeling results and a capital improvement projects program for existing and future development needs. In addition, the SSMP identified four areas within the City's existing sanitary sewer collection system which currently have capacity deficiencies during wet weather (both in the 5-yr-24-hr and 10-yr-24-hr design storm event conditions). In some cases, these capacity deficiencies result in pipe system surcharge and limited overflows discharging inadequately treated sewage into surfacewater.

The City of Oregon City's Comprehensive Land Use Plan requires that the rate of community growth and development may not exceed the community's ability to provide essential public services, including a sanitary sewer system. Policy 11.2.1 of the City's Comprehensive Plan requires that the City "plan, operate and maintain the wastewater collection system for all current and anticipated city residents;" Policy 11.2.3 requires that the City "...provide enough collection capacity to meet standards established by the Oregon Department of Environmental Quality (DEQ) to avoid discharging inadequately treated sewage into surfacewater."

Based upon reasonably available information, the findings of the SSMP demonstrated the need for a moratorium as required by ORS 197,520(2). An initial 6-month moratorium went into effect through the adoption of Ordinance No. 14-1006, which became effective on August 6, 2014. The moratorium was extended for 6 months, effective April 1, 2015, through the adoption of Ordinance No. 15-1002. Since the first extension of the sanitary sewer moratorium in April, the City has taken more steps to implement solutions to resolve current capacity deficiencies. The City has executed two personal service contracts with engineering consulting firms to design needed improvements for two of the four areas, being 12th Street (NW, NE, SW) and 12th St/13th St/Division St. Construction of the 12th and Main Street project was completed in August 2015, allowing the 12th St NW area moratorium to be lifted. Construction of the Madison St. and 14th St. to Division project will begin in September 2015 and is expected to be complete in November 2015, allowing the lifting of the 12th St. SW, 12th St. NE, and 12th St./13th St./Division St. area moratoriums. The City is currently negotiating a personal services contract for the design of the Linn Ave. project, for design in fall/winter 2015/2016

and planned construction in summer 2016. The completion of this project is expected to allow the lifting of the Linn Ave. N and Linn Ave. S moratorium areas in fall 2016. Summarized, the moratorium areas and their status are as follows:

Areas for Which Moratorium is in Effect (Flow-Constrained Areas):

12th Street (NE, SW)
12th St/13th St/Division St.
Linn Ave. N
Linn Ave. S
Hazelwood Drive

Areas for which Moratorium has been Lifted:

12th St NW

While this moratorium remains in effect, all development within the flow-constrained areas shall be subject to the following notice and restrictions:

1. Property owners and representatives shall be notified by staff of the moratorium at the earliest opportunity either during pre-application conferences or before. However, failure to provide notice shall not alter the development restrictions imposed by this moratorium.
2. Land use permit applications will continue to be processed during the moratorium period, and if approved, appropriate conditions shall be imposed restricting development until the flow-constrained sewer condition is remedied.
3. No building or plumbing permit, and/or a public works sewer or construction plan permit applications may be accepted or issued until flow-constrained sewer conditions are remedied and the moratorium is officially lifted.

Any development or redevelopment proposal using conventional wastewater conveyance that does not increase wastewater flows to these capacity restrained areas will be exempt from the moratorium.

A second extension to the moratorium will allow staff the time to complete studies to identify solutions, collect necessary funding and plan for the construction of necessary improvements. This moratorium shall expire six (6) months from the date of its enactment unless the City Commission extends the moratorium in accordance with state law. Staff anticipates the need to extend the moratorium beyond the initial eighteen (18) month period to allow time for the construction of necessary improvements. As a result of implementation of sanitary sewer rate increases, staff anticipates a project implementation schedule that resolves all moratorium areas within 4 years. State law allows for a maximum of 7 years to address the moratorium areas but will require re-occurring City Commission time extension authorizations during the moratorium as a means to obtain an official check-in on improvement progress. As improvements are implemented in each of the capacity-deficient areas, the moratorium will be lifted from these areas during supplemental extensions.