

## ORDINANCE NO. 18-1008

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### AN ORDINANCE OF THE CITY OF OREGON CITY EXTENDING A PUBLIC FACILITIES STRATEGY FOR THE HAZELWOOD DRIVE SEWER SYSTEM

**WHEREAS**, the City of Oregon City is a home rule city under the laws of the State of Oregon and has a duly acknowledged Comprehensive Land Use Plan; and

**WHEREAS**, on August 6, 2014, the City Commission adopted Ordinance 14-1006, declaring a moratorium based on a lack of sanitary sewer capacity to allow new or expanded connections to the City's sewer system in four areas of the City, as identified on the map attached as Exhibit A; and

**WHEREAS**, on October 1, 2014, the City Commission adopted Ordinance No. 14-1012, adopting the City of Oregon City Sanitary Sewer Master Plan (SSMP), which sets forth solutions necessary to correct the problem that created the need for the moratorium and serves as the City's corrective program under ORS 197.530 and 197.768; and

**WHEREAS**, Section 3 of Ordinance No. 14-1012 and ORS 197.530(1) provides that upon adoption of the SSMP, the effective date of the moratorium adopted through Ordinance 14-1006, will expire six months from the date of SSMP enactment unless otherwise extended; and

**WHEREAS**, on March 18, 2015, the City Commission adopted Ordinance No. 15-1002, extending the existing moratorium for an additional six months or until October 1, 2015; and

**WHEREAS**, on September 28, 2015, the City adopted Ordinance 15-1015, lifting the moratorium for the 12<sup>th</sup> Street NW area but also extending the moratorium for a second period for the remaining constrained areas until April 1, 2016; and

**WHEREAS**, on April 1, 2016, the City adopted Ordinance 16-1005, lifting the moratorium for the 12<sup>th</sup> St. NE, 12<sup>th</sup> St. SW, and 12<sup>th</sup> St. / 13<sup>th</sup> St. / Division Street areas but also extending the moratorium for a third period until October 1, 2016, for the still-constrained Linn Avenue and Hazelwood Drive sewer systems; and

**WHEREAS**, on October 1, 2016, the City adopted Ordinance 16-1006, lifting the moratoriums set forth for the 12<sup>th</sup> St. NE, 12<sup>th</sup> St. SW, and 12<sup>th</sup> St. / 13<sup>th</sup> St. / Division St areas and acknowledging the expiration of the moratorium on new development in the Linn Ave and Hazelwood sewer systems but also adopting the SSMP as the public facilities strategy for the still-constrained Linn Avenue and Hazelwood Drive sewer systems expiring October 1, 2018; and

**WHEREAS**, on January 18, 2017, the City adopted Ordinance 17-1001, lifting the development restrictions set forth in the public facilities strategy for the Linn Avenue system but

also continuing the public facilities strategy for the still-constrained and Hazelwood Drive sewer system; and

**WHEREAS**, the City continues to find a demonstrated need to prevent sanitary sewer overflows that would occur in constrained areas, specifically the Hazelwood Drive sewer system; and

**WHEREAS**, on September 17, 2014, the City Commission adopted Resolution No. 14-17, adopting new monthly sanitary sewer collection charges that will allow for the implementation of the SSMP identified solutions to resolve the current capacity deficiencies. Some of those improvements have not yet been made and the problem giving rise to the moratorium still exists; and

**WHEREAS**, the SSMP acts as the City's public facilities strategy that provides a clear, objective, and detailed description of the actions and practices the City will engage in to control the time and sequence of development approvals in response to the identified deficiencies in the City's sewer system; and

**WHEREAS**, pursuant to ORS 197.768(3), the City provided written notice to the Department of Land Conservation and Development on June 29, 2018, which is more than 45 days prior to the final public hearing for adoption of this ordinance; and

**WHEREAS**, pursuant to ORS 197.768(3), the City has made written findings justifying the need for a public facilities strategy which prohibits land development, and building and sewer permit approvals in the constrained areas until capital improvement projects are complete; and

**WHEREAS**, pursuant to ORS 197.768(3), on August 17, 2016, the City Commission held a duly noticed public hearing adopting a public facilities strategy based on the lack of sanitary sewer capacity to allow new or expanded connections to the City's sewer system in two areas, and one of those areas, the Hazelwood system, still has deficient capacity; and

**WHEREAS**, the existing public facilities strategy with regard to areas of Hazelwood shall expire on October 1, 2018, and pursuant to ORS 197.768(6), the City Commission is authorized to extend a public facilities strategy upon a finding that (1) the problem giving rise to the public facility strategy still exists and (2) setting the duration for the public facility strategy for a period of no more than one year.

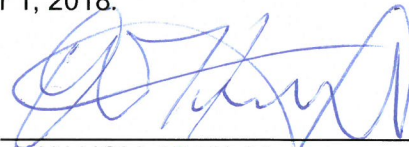
**NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:**

**Section 1.** Continuation of the public facilities strategy. Based on the findings set forth in Exhibit B; the Continuation of the public facilities strategy limiting new development in the area identified as "Hazelwood" shown in the map attached as Exhibit A (Figures 1A-1B), as set forth in Ordinance No. 17-1001; and the capital improvement projects identified in the SSMP, the City continues regarding the SSMP as the public facilities strategy for the Hazelwood Drive sewer system.

**Section 2.** Term. The term of the public facilities strategy shall be extended as of October 1, 2018 and will expire on October 1, 2019, unless otherwise extended in accordance with state law.

**Section 3.** Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

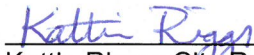
Read for the first time at a regular meeting of the City Commission held on the 15th day of August, 2018, and the City Commission finally enacted the foregoing ordinance this 5th day of September, 2018, and will take effect on October 1, 2018.



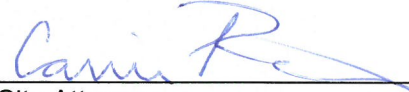
DAN HOLLADAY, Mayor

Attested to this 5th day of September, 2018:

Approved as to legal sufficiency:



Kattie Riggs, City Recorder



City Attorney

Attachments:

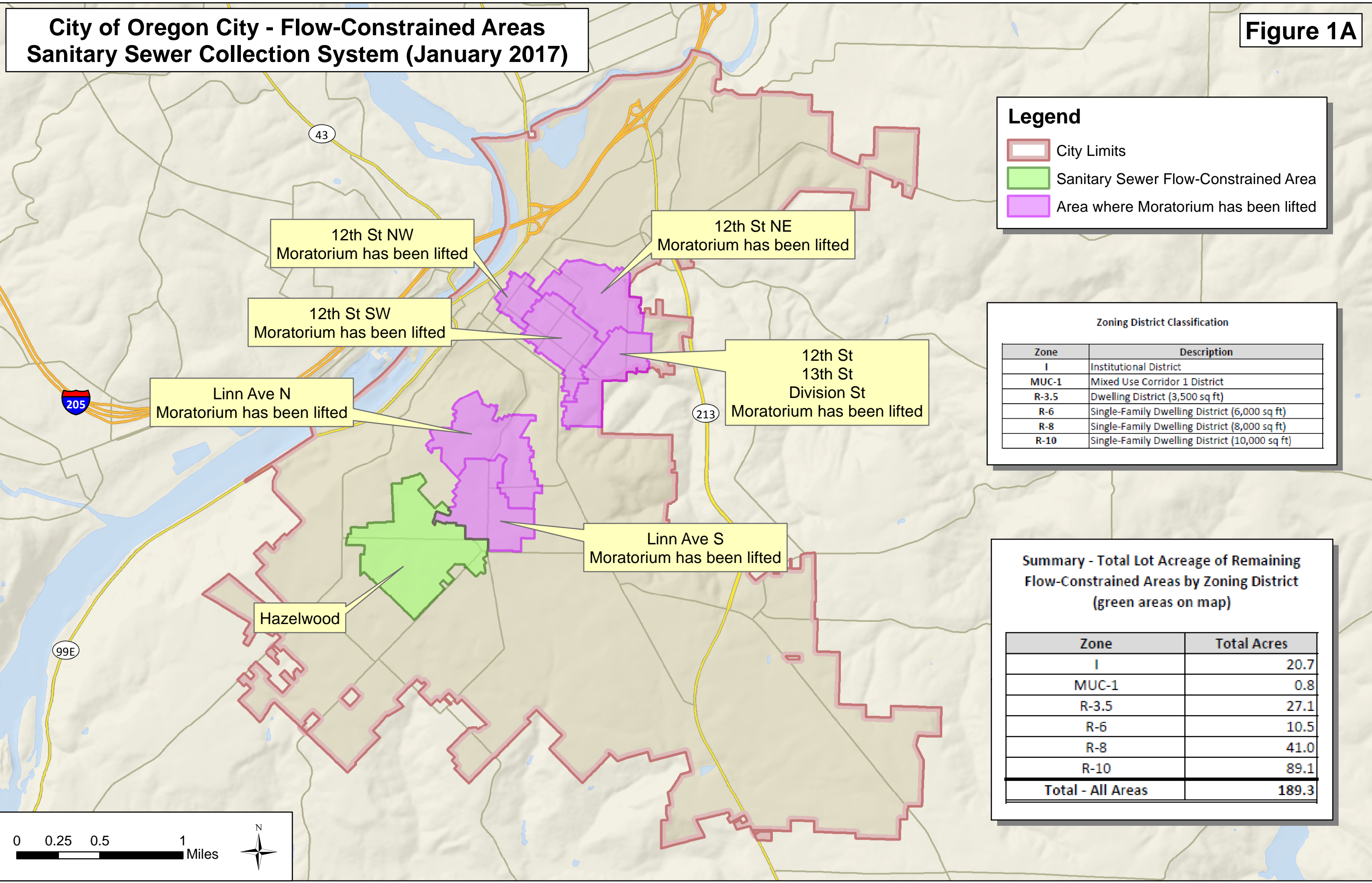
Exhibit A – Figures 1A, 1B, Maps identifying the areas affected by the Public Facilities Strategy

Exhibit B - City Engineer Findings Supporting Public Facilities Strategy



City of Oregon City - Flow-Constrained Areas  
Sanitary Sewer Collection System (January 2017)

Figure 1A



**Legend**

- City Limits
- Sanitary Sewer Flow-Constrained Area
- Area where Moratorium has been lifted

Zoning District Classification	
Zone	Description
I	Institutional District
MUC-1	Mixed Use Corridor 1 District
R-3.5	Dwelling District (3,500 sq ft)
R-6	Single-Family Dwelling District (6,000 sq ft)
R-8	Single-Family Dwelling District (8,000 sq ft)
R-10	Single-Family Dwelling District (10,000 sq ft)

Summary - Total Lot Acreage of Remaining Flow-Constrained Areas by Zoning District (green areas on map)	
Zone	Total Acres
I	20.7
MUC-1	0.8
R-3.5	27.1
R-6	10.5
R-8	41.0
R-10	89.1
Total - All Areas	189.3



Hazelwood Sanitary Sewer  
Flow-Constrained Area

EXHIBIT A

Figure 1B

Downstream Limit of Flow-Constrained  
Pipes for Hazelwood

Hazelwood - Total Lot Acreage of Flow-Constrained Area by Zoning District	
Zone	Total Acres
I	20.7
MUC-1	0.8
R-3.5	27.1
R-6	10.5
R-8	41.0
R-10	89.1
Total	189.3

Legend

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Downstream Limit of Flow-Constrained Pipes

Sanitary Sewer Flow-Constrained Area Boundary

City Limits

Lots within Flow-Constrained Area





## MEMORANDUM

PREPARED FOR: City Commission, City of Oregon City  
SUBJECT: Ordinance No. 18-1008 *Continuing a Public Facilities Strategy for Hazelwood Drive Sewer System*  
  
PLANNING FILE: L 14-03 Sanitary Sewer Moratorium  
FROM: Aleta Froman-Goodrich, P.E., City Engineer  
DATE: June 28, 2018

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### Background

The City of Oregon City (City) provides sanitary sewer collection services to nearly 33,000 people across an area of approximately 9.3 square miles. Currently there are over 10,400 service connections to the sanitary sewer collection system which includes approximately 9,740 residential, 520 commercial, and 130 industrial users. The City owns the following infrastructure: over 148 miles of gravity pipelines, ranging in size from approximately 2 to 36 inches in diameter; 3,700 manholes; 12 (major) pumping stations; and 6 miles of sanitary force mains. The City's buildout population is expected to reach 52,500 by the year 2035, with most of the growth occurring around the fringes of the existing city limits. In 2012, the City retained Brown and Caldwell to develop a new Sanitary Sewer Master Plan (SSMP) including a calibrated model of the City's sanitary sewer collection system. The new SSMP identified areas where capital improvement projects are needed to convey existing and future wastewater flows. Specifically, the master plan identified four flow-constrained areas, Linn Avenue, Hazelwood Drive, 12th Street, and 13th Street/Division Street, which had sewers that were undersized and currently operated beyond existing capacity during both the 1- in 5-year and 1- in 10-year storm events. Any additional flows introduced into these sewers prior to fixing the capacity problems will increase surcharging and the potential for sanitary sewer overflows (SSO) that could result in flooding and/or basement backups. 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 surface water."

In order to not exacerbate identified sewer capacity problems in the four aforementioned flow constrained areas, a 6-month moratorium on land development, building, and sewer permit approvals was adopted by the City Commission on August 6, 2014, through adoption of Ordinance 14-006. This moratorium was extended for three (3) six month periods. The third moratorium extension expired October 1, 2016. Because two of the moratorium areas were still flow constrained at that time (the Linn Avenue and Hazelwood Drive systems), the City Commission voted on August 17, 2016 to adopt the



SSMP as the Public Facilities Strategy for the remaining constrained areas, effective October 1, 2016 to October 1, 2018.

During the time since the original moratorium was declared, capital projects have been completed to remedy capacity shortcomings in the 12th Street and 13th Street / Division Street areas and the Linn Avenue area. The Hazelwood Drive moratorium area is still flow constricted based on the SSMP, and further development must be prohibited until capital improvement projects to remedy identified capacity shortcomings in the system are completed. It is anticipated that projects to remedy flow shortcomings in the Hazelwood Drive basin will be complete in 2019.

Continuation of a public facilities strategy under ORS 197.768 is required in order to prohibit development in the identified flow-constricted areas until the necessary capital improvement projects to remedy flow shortcomings are completed.

The City is required to adopt continued findings to address the standards for a public facilities strategy under ORS 197.768(4). The City finds the following:

- (a) There is a rapid increase in the rate or intensity of land development in a specific geographic area that was unanticipated at the time the original planning for that area was adopted or there has been a natural disaster or other catastrophic event in a specific geographic area;*

The sewer system in the constrained area –Hazelwood Drive – was constructed in the 1980s as part of a citywide sewer separation program, or longer ago. The sewer system was expected to meet the current and projected needs of the community when it was constructed, but is no longer able to meet the anticipated increase in the rate and intensity of land use development required to serve the needs of approximately 20,000 more residents City wide by 2035. Further, many existing manholes in the system are made of brick and have failing manhole walls and channels. Segments of pipe in the system are constructed from clay, asbestos, and other materials which crack and deteriorate over time. New manholes and pipes will be constructed using modern materials and construction techniques, specifically precast reinforced concrete manhole barrels and modern PVC sewer pipe, both of which have exceptional performance and service life compared to brick and clay construction. Both in terms of function and repair condition, portions of the sewer system are subject to catastrophic failure in their existing condition.

The Portland Metro Region has experienced a dramatic increase in new construction during the past 5 years. If construction and sewer hook-ups were allowed in the sewer-constrained areas of Hazelwood Drive, the City expects that a rapid rate of increased and intense land development would occur. For example, the City denied the land use application for a proposed dormitory facility to house 60 people in the Hazelwood Drive area. The City denied the application, in part, because of sewer capacity issues.

In addition to land development pressures, the City considers SSOs a public health and safety risk. Thus, the City treats SSOs as catastrophic events in the Linn Avenue and Hazelwood Drive sewer systems because of the potential for human exposure to sewage overflows, and because DEQ does not allow SSOs. Further, the City has obligations under the federal Clean Water Act to prevent unpermitted discharges from the sanitary sewer system to water of the United States. In recent years the City has experienced overflowing sewers in several locations during heavy rain events. During heavy rain events,

City staff has observed significant surcharging within the Hazelwood Drive sewer system along Warner Parrott Road and in the sewers that are located in Shenandoah Drive and Joyce Court. During two separate storm events, the first on January 2, 2009, and the second on January 19 and 20, 2012, SSOs were recorded. Basement flooding was experienced by the residents at five properties during the first event and at two of the same five properties during the second storm event. The risk of additional property damage, as well as public health and environmental concerns related to SSOs supports the City's decision to enact and continue the public facilities strategy.

New capital improvement projects outlined in the SSMP will protect public health and the environment. No further development that requires sewer hook-ups should be allowed in the constrained areas until the capital improvement projects identified in the SSMP, which is the City's public facilities strategy for the Hazelwood Drive sewer system, are completed.

*(b) The total land development expected within the specific geographic area will exceed the planned or existing capacity of public facilities; and*

Hydraulic modeling carried out as part of the SSMP revealed that segments of pipe in many areas of the City have insufficient capacity to serve existing system users during heavy rainfall. As continued new development and infill occurs, the shortcomings of the system will only be exacerbated. The SSMP Appendix K, Section 3.2, predicts surcharging and flooding during the 1- in 10-year storm event in the Hazelwood Drive area in the existing condition. This area has the potential for additional sewer connections if new development is not restricted, which would only exacerbate the current SSO risk.

*(c) The public facilities strategy is structured to ensure that the necessary supply of housing and commercial and industrial facilities that will be impacted within the relevant geographic area is not unreasonably restricted by the adoption of the public facilities strategy.*

The overall impact area of the moratorium and public facilities strategy is approximately 403 acres, 7% of the total acreage across City. The percentage of the impact area based on zoning districts includes approximately 87% residential, 12% institutional, and 1% mixed use. The area of developable lots located in the overall impact area is approximately 54.3 acres, less than 1% of the total developable acreage across City. The developable lots in the impact area are properties that are either vacant or have a high potential for redevelopment. The percentage of the developable area based on zoning districts includes approximately 97% residential (52.4 acres) and 3% mixed use (1.9 acres). The moratorium areas were identified with the goal of protecting public safety and wellbeing while minimizing disruption to economic development. Other areas outside of the impact area continue to be developed to serve residential, commercial and industrial facility uses.

## CONCLUSION

Based on the foregoing, the City finds that the conditions of ORS 197.768(4) have been satisfied, and the current public facilities strategy should be continued to prohibit land development, building, and sewer permit approvals within the Hazelwood Drive area.



The existing public facilities strategy with regard to the Hazelwood Drive system will expire on October 1, 2018, and pursuant to ORS 197.768(6), the City Commission is authorized to extend a public facilities strategy upon a finding that (1) the problem giving rise to the public facility strategy still exists and (2) setting the duration for the public facility strategy for a period of no more than one year.

Under ORS 197.768(5), the public facilities strategy includes clear, objective and detailed descriptions of the actions that the City will engage in to control the time and sequence of development approvals in response to the identified deficiencies in public facilities. The City's public facilities strategy is set forth in the attached SSMP developed to remedy the sewer constrained areas for the Hazelwood Drive sewer system. See Figures 1A-1B.

**GSB:7830145.1 [34758.00100]**