



**AN ORDINANCE ALLOWING EXTENSIONS FOR LAND USE APPROVALS THAT COULD EXPIRE DURING THE CITY'S DEVELOPMENT MORATORIA**

**WHEREAS**, the City desires to mitigate the impacts of the current sanitary sewer moratorium and consent decree on developments for which applications for land use approval were submitted prior to the establishment of the initial moratorium as much as is possible under the circumstances;

**WHEREAS**, the sanitary sewer moratoria and consent decree have created uncertainties for developers and contractors related to development timelines and permit issuance;

**WHEREAS**, the number of Equivalent Residential Units (ERUs) of capacity in the City's wastewater system available for development has varied since the establishment of the initial moratorium on October 3, 2022, which has created additional uncertainty;

**WHEREAS**, although the City is working diligently to address the underlying causes of the sanitary sewer moratoria, the ultimate duration of the moratoria remains unknown;

**WHEREAS**, the City recognizes that property owners who submitted applications for land use approval prior to the initial moratorium invested significant resources into those approvals;

**WHEREAS**, the land use approvals for several of these projects now run the risk of expiring;

**WHEREAS**, the City Council therefore believes it is just and equitable to allow for the extension of the expiration date of those land use approvals in order to allow those developments to proceed through construction to the extent possible under the consent decree and development moratoria; and

**WHEREAS**, the City Council believes allowing extension of such approvals will stimulate responsible and needed development activity in the city of Sandy to the extent possible under the consent decree and moratoria, help address the state's current housing crisis, enable property owners to recoup their investments, and reduce the amount of staff time necessary to review these projects again if land use approvals were to expire and new approvals would be required.

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

**Section 1.** An owner, as that term is defined in Sandy Municipal Code 17.10.30, whose property has received land use approval based on an application which was submitted prior to October 3, 2022, may apply for and be granted a one-year extension of the expiration date of such approval as provided herein. If approved, one year will be added to the current expiration date of the land use approval. This extension is in addition to any other extension which may be available under the Sandy Municipal Code. The Development Services Director will review and approve an extension request pursuant

to a Type I process under Sandy Municipal Code 17.12.10 if an applicant satisfies the clear and objective criteria above.

**Section 2.**

The period of the extension described in Section 1 shall be two years rather than one year if requested by the applicant and the request meets at least one of the following additional criteria:

1. The applicant submits a letter from a third-party lender or other third-party source of project financing stating that an extension period of two years is necessary in order for the third party to agree to finance the development.
2. The land use approval is for a complex development, defined for purposes of this Section 2 as a development which will consume more than thirty (30) ERUs, calculated as set forth in the consent decree for the City of Sandy entered in the U.S. District Court for the District of Oregon on September 11, 2023, and based on:
  - a. For land use decisions where a specific number of ERUs can be calculated based on the terms and conditions of the approval (e.g. unit count, unit type, approved use), the number of ERUs so calculated.
  - b. For all other land use decisions, 1 ERU per lot or parcel, excluding lots and parcels which are dedicated or restricted to use as open space, common areas, water quality facilities, or similar.

Any land use approval which receives a two-year extension under this Section 2 shall be ineligible for modification under Section 17.90.80 of the City of Sandy Development Code for a period of three (3) years commencing on the date the extension application is submitted, unless such modification reduces the number of ERUs associated with the project, as calculated pursuant to this Section 2.

**Section 3.**

An application for extension shall include the following:

1. A completed Land Use Application Form and payment of fees in the amount of \$530;
2. A written narrative addressing the approval criteria contained in Section 1 above.

**Section 4.**

This ordinance is supported by findings, attached as Exhibit A, and incorporated by reference.

**Section 5.**

This ordinance shall take effect thirty days after its enactment. An applicant seeking an extension under this ordinance must submit an application no later than one year after the date of adoption of this ordinance.

This ordinance is adopted by the City Council of the City of Sandy this 20th day of May, 2024.



---

Stan Pulliam, Mayor

ATTEST:

A handwritten signature in cursive script, appearing to read "Jeffrey Aprati", is written over a horizontal line.

Jeffrey Aprati, City Recorder

## **Ordinance 2024-09 Findings for Land Use Approval Extension**

### **Goal 1: Citizen Involvement**

1. Public involvement is a required part of land use planning in Oregon. This requirement is one of the things that make Oregon's land use planning program unique. The requirement for public participation is written in the first goal of nineteen in the statewide land use planning system. Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process."

***Findings:*** The City will hold public hearings before both the Planning Commission and City Council to afford the public the opportunity to be involved. Notice of the two hearings was published in the Sandy Post, posted on the City's website, and on the City Facebook account. Notice was provided to the Department of Land Conservation and Development on March 6, 2024.

***Conclusion:*** *Goal 1 Public Involvement requirements related to Ordinance 2024-09 are met.*

### **Goal 2: Land Use**

2. Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. Cities and counties must build their comprehensive plans on a factual base and follow their plan when making decisions on appropriate zoning.

***Findings:*** This extension process will continue to validate the applicant's original approval and will remove uncertainty surrounding specific development needs while maintaining desired community outcomes. The proposed land use approval extension shows that the City is continuing to seek alternative actions during the sanitary sewer moratoria.

The extension process validates the City's decision making to mitigate the negative economic impact on the City's housing and economic goals while providing the continued support to the development community's economic interest in Sandy.

Nothing in the proposal contradicts any language in the City's comprehensive plan.

***Conclusion:*** *Goal 2 Land Use requirements related to the Land Use Approval Extension policy are met.*

### **Goal 9: Economic Development**

3. Goal 9 requires cities to provide adequate opportunities for a variety of economic activities vital to the health, welfare, and prosperity of their citizens. Cities comply with goal 9 through analysis of economic development needs and inventories of related land supplies.

**Findings:** The proposed land use approval extension ordinance will assist with economic development growth which is critical to meet future economic development needs as outlined in the 2024 Economic Opportunities Analysis (EOA). The extension process provides an efficient way in which applicants with certain approvals which are approaching expiration may preserve and resume their development activities, thus encouraging more cost-effective development of land to meet the City's economic development needs as well as reducing administrative strain on local planning authorities and private landowners.

**Conclusion:** *Goal 9 Economic development requirements related to the Land Use Approval Extension policy are met.*

### **Goal 10: Housing**

4. ORS 197.295-314 and 197.475-490 and Oregon Administrative Rule (OAR) 660-008 implement Goal 10, and the OAR requires that cities analyze housing needs to ensure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries (UGBs), and to provide greater certainty in the development process so as to reduce housing costs.

**Findings:** The proposed land use approval extension ordinance will assist with growth of housing supply which is critical to meet future housing demand as outlined in the 2024 Housing Capacity Analysis (HCA). The extension process provides an efficient way in which applicants with certain approvals which are approaching expiration may preserve and resume their development activities, thus encouraging more cost-effective development of land to meet the City's housing needs as well as reducing administrative strain on local planning authorities and private landowners.

**Conclusion:** *Goal 10 Housing requirements related to the Land Use Approval Extension policy are met.*

### **Goal 11: Public Facilities**

5. This goal is to establish policies to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

**Findings:** The City's comprehensive plan contains an acknowledged Goal 11 element that contains policies to ensure sufficient and adequate public services are available (or will be available as appropriate) to serve lands within the UGB. This extension proposal does not authorize any increase in development other than those projects which have already been reviewed, therefore no negative impact on public facilities is expected to occur.

The extension process will not be in violation of the moratorium and will not place any additional burdens on the sanitary sewer treatment system than what is already anticipated. The City has previously determined that all approved applications eligible for extension satisfy the requirements of the Sandy Municipal Code.

***Conclusion: Goal 11 Public Facilities requirements related to the Land Use Approval Extension policy are met.***

**Goal 12: Transportation**

6. This goal is to establish policies to provide and encourage a safe, convenient, and economic transportation system.

***Findings:*** The City’s Comprehensive Plan with respect to Goal 12, its transportation system plan, and its standards governing transportation and transportation-related facilities are not affected by this decision.

The City’s comprehensive plan contains an acknowledged Goal 12 element that contains policies to ensure sufficient and adequate transportation facilities and services are available (or will be available as appropriate) to serve lands within the UGB. This extension proposal does not authorize any increase in development other than those projects which have already been approved, therefore no additional impacts are anticipated to occur.

It should be noted that the TPR is triggered when a post acknowledgment amendment “significantly affects” a transportation facility. The City finds that the proposed policy (ordinance) does not meet the definition of a “significant effect” pursuant to OAR 660-012-0060(1)(a) - (c) because it will not: (1) change the functional classification of an existing or future facility; (2) change the standards implementing the functional classification system; or (3) result in any of the effects listed in 0060(1)(c)(A)-(C).

***Conclusion: Goal 12 Transportation requirements related to the Land Use Approval Extension policy are met.***