

ORDINANCE NO. NS-2179

AN ORDINANCE AMENDING THE BEND CODE BY ADDING NEW CHAPTERS TO TITLE 9 AND DELETING CHAPTERS 9 AND 9-18

Findings

- A. The City is in the process of reviewing and revising the Bend Code.
- B. The City has previously amended Chapter 9 by replacing Chapter 9-16 Grading Ordinance with a new Title 16 Grading, Excavation and Stormwater and by replacing Chapter 9-17 Sign Code with a new Chapter 9.50 Sign Code.
- C. This ordinance deletes the former Chapter 9-18 Woodstove Removal because the subject matter is adequately covered by state statutes.
- D. This ordinance reorganizes the remaining portions of Chapter 9 into New Chapters 9.10 Building Codes, 9.20 Moving Buildings, 9.30 Wildlife Hazard Zone and 9.40 Affordable Housing Fee. Some editing and updating is done to Chapters 9.10, 9.20 and 9.30, but the only change to Chapter 9.40 is renumbering.

BASED ON THESE FINDINGS THE CITY OF BEND ORDAINS AS FOLLOWS:

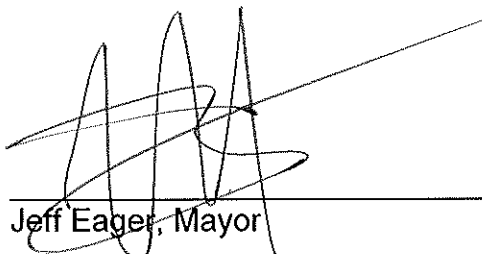
- Section 1. The Bend Code is amended by adding Chapters 9.10 Building Codes, 9.20 Moving Buildings, 9.30 Wildlife Hazard Zone and 9.40 Affordable Housing Fee as shown in the attached Exhibit A.
- Section 2. Bend Code Chapter 9-18 Woodstove Removal is repealed.

First Reading on February 15, 2012.

Second Reading and Adoption by Roll Call Vote on March 7, 2012.

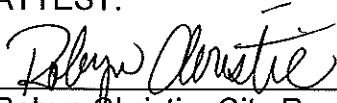
YES: Tom Greene
Scott Ramsay
Mark Capell
Jodie Barram
Jim Clinton
Kathie Eckman
Mayor Jeff Eager

NO: None



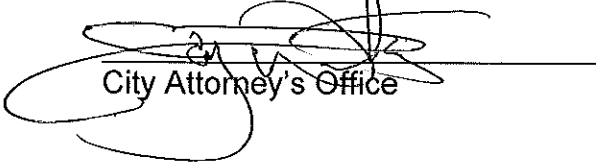
Jeff Eager, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



City Attorney's Office

Exhibit A

TITLE 9 – BUILDINGS

Chapter 9.10 BUILDING CODES

9.10.010 Authority of Building Official

The City of Bend Building Official is authorized to administer and enforce this Chapter and the following State of Oregon Codes for the City of Bend, and shall have all authority granted by these codes:

- (1) The Oregon Structural Specialty Code;
- (2) The Oregon Mechanical Specialty Code;
- (3) The Oregon Plumbing Specialty Code;
- (4) The Oregon Electrical Specialty Code;
- (5) The Oregon Residential Specialty Code;
- (6) The manufactured dwelling park and mobile home park rules;
- (7) The manufactured dwelling rules;
- (8) The recreational park and organization camp rules; and
- (9) All referenced material within the above codes.

9.10.020 Stop Work Orders

(1) Authority. Whenever the Building Official finds any work regulated by any code of this jurisdiction being performed in a manner either contrary to the provisions of this code or any other code of this jurisdiction or dangerous or unsafe, the Building Official is authorized to issue a stop work order.

(2) Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

9.10.030 Validity of Permit

The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other laws or ordinances of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other laws or ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is also authorized to prevent or vacate occupancy or use of a structure where in violation of this code or of any other laws or ordinances of this jurisdiction.

9.10.040 Suspension/Revocation

The Building Official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code.

9.10.050 Permit Expiration, Extension and Reinstatement

(1) Every permit issued by the building official shall expire and become null and void if the building or work authorized by the permit is not commenced within 180 days from the date of the permit, or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. The building or work authorized is considered suspended or abandoned if no approved inspections are acquired for 180 days.

(2) Any permittee holding an unexpired permit may apply for an extension of the time within which work is to be completed. The building official may extend the time for action by the permittee for a period not exceeding 180 days on written request by the permittee showing that circumstances beyond the control of the permittee have prevented work from being completed. Extensions may be granted only if the following conditions exist:

- (A) The applicable building codes have not changed since the permit was issued.
- (B) The applicable land use standards have not changed since the land use approval or, for outright permitted uses, the date of the building permit application.

Extensions may only be granted if the building official determines that the building project is likely to be completed in a reasonable time.

(3) Where a permit has expired, the permit may be reinstated and the work authorized by the original permit can be recommenced, provided the following are met:

- (A) The conditions listed above for extensions exist;
- (B) No changes have been made or will be made in the original plans and specifications for such work; and
- (C) The original permit expired less than one year from the request to reinstate.

The building official can review and approve exceptions at the building official's discretion if the preceding criteria cannot be met. The fee for a reinstated permit will be proportional to the amount of review and inspection required as compared to the amount required for a new application and permit.

9.10.060 Fees

Fees charged under this code shall be as provided by Council Resolution. The Building Official may authorize the refunding of fees paid in accordance with the refund policy in effect in the jurisdiction. The determination of value or valuation under any provisions of this code shall be made by the Building Official. The value to be used in computing the building permit and plan review fees shall be the total value of all construction work for which the permit is issued as well as all finish work, painting, roofing, electrical, plumbing, heating, air conditioning, elevators, fire-extinguishing systems and any other permanent equipment.

9.10.070 Violation and Penalty

A violation of this Chapter is a Class A civil infraction, unless some other penalty is specified in the applicable specialty code or State law. In the case of a continuing violation, every day's continuance of the violation shall be considered a separate offense. A person cited for a violation of this Chapter has the right to a hearing before a hearings officer appointed by the City Manager. The hearings officer may be a city employee other than an employee of the Building Division.

Chapter 9.20 MOVING BUILDINGS

9.20.010 Permit Required to Move Buildings.

No person may move a building on or through rights of way located within the City without a Building Moving Permit issued by the Building Official.

9.20.020 Application

The application for a Building Moving Permit must include the following:

- (1) A completed City application form showing the route to be taken in moving the building, the date and time the building will be moved (including the approximate length of time which may be consumed in the moving process), and the dimensions of the vehicle used to transport the house when loaded with the house which is being moved.
- (2) Written approvals of the move from all utility companies with overhead lines along the route.
- (3) A deposit for damages of \$5,000.
- (4) A Certificate of Insurance demonstrating liability insurance with minimum policy limits at least equal to the City's tort liability limits. The policy shall include the City of Bend, its officers and employees as additional insured for all actions relating to the issuance of the permit and movement of the building.
- (5) The permit fee in the amount established by Council resolution.

9.20.030 Requirements

- (1) The building may be moved on the route authorized in the permit.
- (2) Applicant shall provide, at applicant's expense, an escort for the building at all times while the building is in the right of way. The escort shall be either a regular or reserve City of Bend Police Officer or other responsible person approved by the Police Chief. Arrangements for escort shall be made at least twenty-four hours in advance with the Police Chief.
- (3) The Applicant must notify all utility companies controlling or maintaining power, telephone, cable, or other overhead lines along the route of the move at least one week before the moving date of the intended move, with details on the date, time and route.
- (4) The permittee shall promptly repair, to the satisfaction of the City of Bend, any damage to any public or private property resulting from the moving of the building.
- (5) If the applicant fails to repair damage promptly, the City may repair the damage and deduct the cost of repairs from the funds deposited with the application and may take appropriate legal action to collect damages in excess of those posted with the City.

9.20.040 Permit Issuance

The Building Official may deny the permit if the application materials are incomplete or insufficient, if the building cannot be safely moved along the described route, or if the move will create an unacceptable impact on rights of way, utility facilities, or adjoining properties. The Building Official may impose conditions of approval, including conditions relating to the time of the move, the route followed, equipment to be used, traffic control measures to be taken, or other conditions to protect public safety and public and private property.

9.20.050 Moving to a Location in the City

If the building is being moved to a location within the City, the permit may not be issued until the Building Official has conducted an inspection of the building to be moved and has generally advised the permittee what will be necessary to bring the building into compliance with all applicable laws, codes and regulations after it has been moved. The permit will not be issued until a building permit has been obtained to site the building in its new location. The building must be installed on a permanent foundation in conformance with all applicable laws, codes and regulations within 60 days of the date of the move, and the moved building must comply with all applicable laws, codes and regulations within 120 days of the move.

9.20.060 Appeal of Permit Denial

The applicant may appeal the denial of a permit by submitting a written appeal to the City Council, which shall hear the appeal at the next council meeting that is at least five days after the date the appeal is filed.

9.20.070 Tires

Buildings moved under this chapter must be moved on equipment with inflated pneumatic tires of sufficient size to reasonably carry the load being moved without damage to the surface on which the load is moved.

9.20.080 Limitation of Permits

The issuance of a permit does not authorize the permittee, to break, injure, damage, or move public utility facilities, trees, or other public or private property without written permission from the owner of the property.

9.20.090 Violation

A violation of this Chapter is a Class A civil infraction. Every day's continuance of the violation shall be considered a separate offense.

CHAPTER 9.30 WILDFIRE HAZARD ZONE

9.30.010 Wildfire Hazard Zone Established

A Wildfire Hazard Zone is adopted for all areas in the City of Bend.

CHAPTER 9.40 AFFORDABLE HOUSING FEE

9.40.010 Affordable Housing Fee Imposed

A fee of 1/5 of 1% of permit valuation, for all building permits, shall be assessed at time of Building Permit Application.

9.40.020 Special Revenue Fund

Funding received from this source shall be deposited in special revenue fund and only be spent for affordable housing programs and projects evaluated pursuant to the priorities established through the City of Bend Consolidated Plan and administration of the affordable housing programs and projects. Any loan proceeds from this source shall be returned to the fund. In years where fee collections are sufficient so that less than 10% of the total fee covers permitted administrative expenses as defined in Section 3 of this ordinance, that excess amount, not to exceed 10% of total collected shall be placed in a reserve account to cover future permitted administrative costs with the long term goal of annual administrative costs not to exceed 10% of total annual collected fees. Repaid loan amounts shall not be included assessing administrative cap expenses. Applications for and awarding of this funding shall be done on an annual basis by the City Council and will utilize the City of Bend's Affordable Housing Advisory Committee's recommendations. The fund shall not be used to pay for General Fund programs or other programs not related to the provision of affordable housing and the administration of the City's affordable housing program.

9.40.030 Permitted Expenditures.

Permitted expenditures shall include:

(1) One Full Time Equivalent (FTE) employee shall be authorized for purposes of administration of this program and the Department of Housing and Urban Development *Community Development Block Grant Program (CDBG)*. This employee shall be primarily funded by the administrative allowance of the CDBG program. If the federal allocation is not sufficient to meet the entire FTE cost, the remainder shall be provided for by the City of Bend Affordable Housing Fee funds.

(2) In addition to the employee specified in Paragraph A above, the following administrative purposes may be paid for from the Affordable Housing Fund:

(A) *General management, oversight and coordination.* Reasonable costs of overall program management, coordination, monitoring, and evaluation. Such costs include, but are not necessarily limited to, necessary expenditures for the following:

(a) Salaries, wages, and related costs of staff for program administration. This may include the entire salary, wages, and related costs allocable to the program of each person whose *primary* responsibilities with regard to the program involve program administration assignments, or the pro rata share of the salary, wages, and related costs of each person whose job includes *any* program administration assignments. Program administration includes the following types of assignments:

- (i) Providing local officials and citizens with information about the program;
- (ii) Preparing program budgets and schedules, and amendments thereto;
- (iii) Developing systems for assuring compliance with program requirements;
- (iv) Developing interagency agreements and agreements with subrecipients and contractors to carry out program activities;
- (v) Monitoring program activities for progress and compliance with program requirements;
- (vi) Preparing Issue Summaries, reports and other documents related to the program;
- (vii) Coordinating the resolution of audit and monitoring findings;
- (viii) Evaluating program results against stated objectives;
- (ix) Managing or supervising persons whose primary responsibilities with regard to the program include such assignments as those described above; and
- (x) Payment of reasonable administrative costs and carrying charges related to the planning and execution of activities assisted in whole or in part with Affordable Housing Fee funding.

(b) Travel costs incurred for official business in carrying out the program;

(c) Administrative services performed under third party contracts or agreements, including such services as general legal services related to projects funded through this program, accounting services, and audit services; and

(d) Other costs for goods and services required for administration of the program, including such goods and services as rental or purchase of equipment, insurance, utilities, office supplies, and rental and maintenance of office space.

(B) *Public information.* The provisions of information and other resources to residents and citizen organizations participating in the planning, implementation, or assessment of activities being assisted with Affordable Housing Fee funds.

(C) *Indirect costs.* Indirect costs may be charged to the Affordable Housing Fee program under the City of Bend Cost Allocation program. Indirect costs may not exceed 3% of the balance of unobligated funds on hand at the beginning of the fiscal year.

(3) **Project Costs.** Costs related to completion of specific projects shall be allocated to the specific project.

9.40.040 Median Income Requirement

Affordable housing fee proceeds may be targeted for housing opportunities for residents at or below 100% of area median income.

9.40.050 Expiration

Bend Code Chapter 9.40 shall expire on June 30, 2014, unless renewed by the Bend City Council.

