

## RESOLUTION NO. 3109

### A RESOLUTION GIVING THE BUILDING OFFICIAL DIRECTION TO LIMIT TEMPORARY CHANGE OF OCCUPANCY PERMITS

#### Findings

- A. On January 3, 2018, City Building, Fire Department and Community Development Department (CDD) staff presented information to the City Council in a work session about events on private property.
- B. As part of that presentation, staff talked about the process, risks and advantages of temporary changes to occupancy that are typically requested within buildings, which are not designed for gatherings and assemblies. Staff discussed the building, fire and safety requirements that increase as occupancy increases, particularly for buildings or enclosures that are not meant to house that many people. Staff also noted its support of the opportunity to promote a business that the occasional ability to exceed the building code requirements can provide, if public safety allows.
- C. The Building Official is authorized by State code to issue Temporary Change of Occupancy (TCO) Permits for temporary structures and temporary uses, limited to time of service, in the Building Official's discretion, provided such uses conform to any requirements imposed for structural strength, fire safety, means of egress, accessibility, light, ventilation and sanitary requirements of the code as necessary to ensure public health, safety and general welfare. Section 108.1, Temporary Structures and Uses, Oregon Structural Specialty Code; Section 111.1, Certificate of Occupancy.
- D. Issuance of TCOs are discretionary with the Building Official. The City of Bend reviews the following:
  - Floor plan, exits, emergency lighting, ADA, seat/table layout, safe dispersal area, fire department access, food/alcohol service, fire watch plan, exit lighting required, panic hardware installation, security and emergency personnel, crowd manager for 1000+
  - Fire staff perform onsite inspections prior to issuance and day-of-the-event site visits.
- E. Building, Fire Department and CDD staff noted that particularly for crowded, evening events, these concerns are directed toward community safety, crowd management, integrity of structures, and ensuring the safety of the attending public, while also supporting the flexible implementation of the City codes.
- F. Staff also provided data on the number of TCOs issued in the past year and the past three years. The average is two TCO Permits obtained by business locations within City limits annually. One establishment, the Century Center, has applied for and received TCOs more frequently, approximately seven TCOs annually, for use of the partially enclosed courtyard/parking area. Staff expressed concern that while the owner has regularly worked with City to

address safety concerns, the use has intensified over the years and become a use more like an ongoing event center.

- G. Normally, Council would consider implementation of the building code to be within the sole discretion of the Building Official, and part of the day-to-day operations of the City. However, given the policy, risk assessment, neighborhood and business interests being balanced on this issue, staff has requested and Council desires to give the Building Official direction in the exercise of discretion under the Building Code.
- H. While no perfect number of TCOs exists, the experience in Bend is that 1-3 per year for any given business provides the desired flexibility without raising the concern that the business is routinely operating outside the parameters of the applicable codes intended to protect the public welfare and safety.

Based on these findings, THE CITY COUNCIL OF THE CITY OF BEND RESOLVES AS FOLLOWS:

- Section 1. Due to the increased risks and associated demands on regulatory staff as identified by Building and Fire Department staff, Council agrees that TCOs should typically be limited to no more than three per year per business location as a general policy.
- Section 2. If a particular business is operating in such a manner that their business model requires a more regular use that exceeds the applicable code requirements, Community Development Department staff should work with the owner/occupier to properly permit the desired use.
- Section 3. This resolution takes effect immediately on passage.

Adopted by the Bend City Council on February 21, 2018.

YES: Casey Roats, Mayor  
Bill Moseley  
Bruce Abernethy  
Justin Livingston

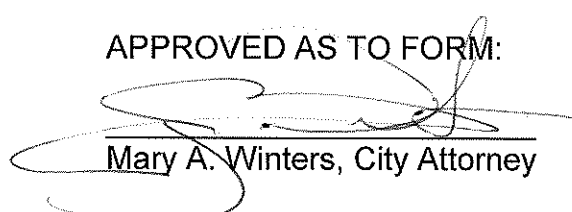
NO: Sally Russell  
Nathan Boddie  
Barb Campbell

  
Casey Roats, Mayor

ATTEST:

  
Robyn Christie, City Recorder

APPROVED AS TO FORM:

  
Mary A. Winters, City Attorney