

ORDINANCE NO. NS -2340

**AN ORDINANCE AMENDING BEND CODE CHAPTER 9.50, SIGNS AND
DECLARING AN EMERGENCY**

Findings:

- A. The application was processed in accordance with Bend Development Code (BDC) 4.1.500. The City provided timely and sufficient notice of the legislative changes pursuant to Section 4.1.515 of the Bend Development Code.
- B. During visitor's communication on January 16, 2019, Ned Myers, Assistant Principal of Pine Ridge Elementary School, asked the City Council to revisit the sign code to allow murals in other parts of the City similar to the Makers District so that Pine Ridge and Elk Meadow Elementary Schools can paint a mural on a Central Oregon Irrigation District (COID) canal retention wall.
- C. Mural signs have the opportunity to tell a community's stories, create a unique experience, engage citizens, increase foot traffic and commerce, increase appreciation for the arts and artists, and increase overall attractiveness of the space. The proposed amendments will allow murals to be painted in many more areas of the city.
- D. Notice of the May 13, 2019, Planning Commission public hearing and of the May 15, 2019, City Council public hearing was printed in the Bend Bulletin on April 20, 2019. Notice was mailed to the neighborhood associations on April 15, 2019.
- E. The Planning Commission held a public hearing for the proposed amendments on May 13, 2019. At the conclusion of the hearing, the Planning Commission voted to recommend the proposed amendments be approved by the City Council.
- F. The City Council held a public hearing on May 15, 2019, to accept evidence, receive public testimony, and consider the Planning Commission's recommendation. The City Council found that the proposed amendments satisfy the criteria for approval contained in Section 4.6.200 of the Bend Development Code. At the public hearing, the Council amended the ordinance to add an emergency clause in order to allow for the possibility that students could proceed with a mural project in the current school year. The Council voted to approve the proposed amendments to the Bend Code, as amended.

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

Section 1. The Bend Code is amended as shown in Exhibit A.

Section 2. In addition to the findings set forth above, the City Council adopts and incorporates the findings in Exhibit B.

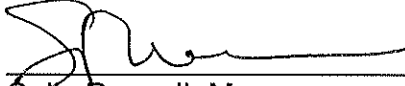
Section 3. Declaration of Emergency. The City Council finds that this ordinance is necessary for the health, safety and welfare of the public, and finds that an emergency exists. The ordinance therefore becomes effective upon its passage.

First Reading: May 15, 2019

Second reading and adoption by roll call vote: June 5, 2019

YES: Sally Russell, Mayor
Bruce Abernethy
Barb Campbell
Bill Moseley
Chris Piper
Gena Goodman-Campbell

NO: none



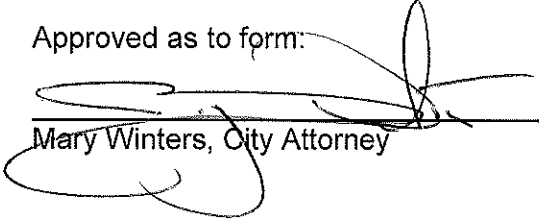
Sally Russell, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



Mary Winters, City Attorney

**EXHIBIT A
Bend Code Update
City Council
June 5, 2019**

Prepared by:
City of Bend Planning Division

Note:

Text in underlined typeface is proposed to be added

Text in ~~strikethrough~~ typeface is proposed to be deleted.

***Indicates where text from the existing code has been omitted because it will remain unchanged.

Staff comments are ***bold and italicized***

Chapter 9.50

SIGNS

Sections:

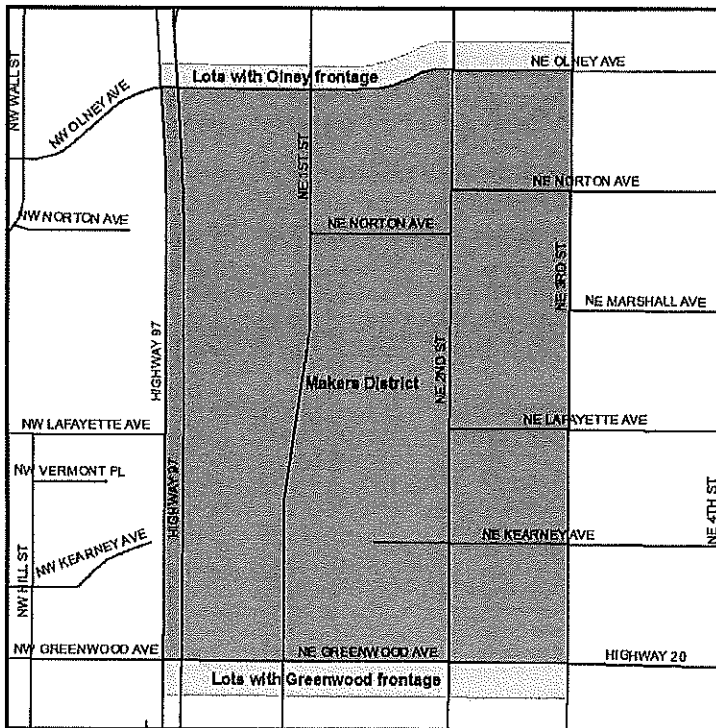
- 9.50.010 Purpose and Applicability.
- 9.50.020 Pre-Application Conference.
- 9.50.030 Definitions.
- 9.50.040 Permit Requirements and Sign Districts.
- 9.50.050 Signs Exempt from Permit Requirements.
- 9.50.060 Temporary Signs.
- 9.50.070 Prohibited Signs.
- 9.50.080 Sign District Regulations.
- 9.50.090 Standards for Permanent Signs.
- 9.50.095 Standards for Mural Signs.
- 9.50.100 General Requirements.
- 9.50.110 Procedures.
- 9.50.120 Amendments.
- 9.50.130 Formal Interpretation.
- 9.50.140 Variance.
- 9.50.150 Adjustment to Standards.
- 9.50.160 Appeals.
- 9.50.170 Sign Plan.

- 9.50.180 Historic Landmarks.
 - 9.50.190 Nonconforming Sign.
 - 9.50.200 Enforcement.
 - 9.50.210 Severability.
- Exhibit

9.50.030 Definitions.

Makers District means the area bounded by NE Greenwood Avenue, NE Olney Avenue, the centerline of NE 3rd Street and the west side of the Bend Parkway, plus properties south of NE Greenwood Avenue that have frontage on NE Greenwood Avenue between 3rd Street and the Bend Parkway and properties north of NE Olney Avenue that have frontage on NE Olney Avenue between NE 3rd Street and the Bend Parkway.

Delete map



Mural signs are a subcategory of a wall sign and consists of paint applied directly to the exterior wall of a building, or the mural sign consist of paint applied directly on a structure and is not a sign type included in Table 1. Mural signs may not include any additional materials including, but not limited to, electrical components or lighting, dimensional structural elements, or automated methods that causes changes in the appearance of the mural.

Wall sign means a single-sided sign that is attached to or painted on an exterior wall of a building, parapet or mansard so that the sign face is parallel or approximately parallel to and within 18 inches of a building wall, parapet or mansard. A mural sign is a subcategory of a wall sign and is defined as follows:

~~Mural sign means a sign that is painted directly on the surface of a building or retaining wall, without any sign structure or additional surface. (Relocated to be in alphabetical order and revised definition.)~~

9.50.040 Permit Requirements and Sign Districts.

A. Sign Permit Required. Unless exempted under this chapter or as authorized by BC 9.50.190, Nonconforming Signs, sign permits are required for:

1. New signs.
2. Alterations to an existing sign.
3. Relocation of a sign.
4. Works of art, graphics and ~~m~~Murals signs.

9.50.080 Sign District Regulations.

~~The table-Table 1~~ in this section establishes the types of signs allowed in the City's Sign Districts. BC 9.50.090 provides standards for each type of sign and BC 9.50.100 provides general requirements including illumination standards.

Table 1

SIGN TYPE	SIGN DISTRICT					
	1	2	3	4	5	6
Awning/Canopy Sign	P	P	P	P	P	P
Projecting Sign	P	P	P	P	P	P
Wall Sign	P	P	P	P	P	P
Window Sign	P	P	P	P	P	P
Suspended Sign	P	P	P	P	P	P
Roof Sign	N	N	N	N	N	N
Primary Sign	P	P	P	P	P	P
Billboard Sign	P	P	N	N	N	N
Directory Sign	P	P	P	P	P	P
Drive-through Sign	P	P	P	P	P	P
Mural Sign	P/N*	P/N*	N	N	N	N

P: Permitted as allowed in BC 9.50.090 and 9.50.100

N: Not permitted

*Mural signs are permitted in the Makers District and not permitted elsewhere.

9.50.090 Standards for Permanent Signs.

B. Standards for Specific Signs. Where allowed by BC 9.50.080, the following standards apply to specific types of signs:

~~10. Mural Signs. (Created new Section 9.50.095, Mural Sign Regulations)~~

- ~~a. Mural signs are permitted in the Makers District in addition to any other sign allowed on a property.~~
- ~~b. Mural signs are not subject to the size and height limitations applicable to wall signs.~~
- ~~c. The mural must be kept in good condition until it is removed.~~
- ~~d. A permit is required for mural signs. All artists and owners of the property must sign the mural sign permit application. All artists and owners of the property must agree that the mural sign may be removed or painted over at any time after five years from the date the mural sign permit is issued, or at any time the mural sign becomes noncompliant with this code.~~

9.50.095 Mural Sign Regulations.

A. Standards for Mural Signs. The following standards apply to mural signs in addition to the general requirements provided in BC 9.50.100:

1. Mural signs are allowed on properties designated as commercial, mixed-use, public facilities, or industrial on the Comprehensive Plan map, in addition to any other sign allowed on a property.
2. Except for sites zoned Urbanizable Area (UA) District, mural signs are allowed in the residential Comprehensive Plan map designations in addition to any other sign allowed on a property when they comply with the following:
 - a. The mural sign is located on a developed site that abuts an arterial or collector street and the site does not include a residential use.
3. Mural signs are not subject to size and height limitations.
4. Mural signs must be kept in good condition until they are removed.
5. A permit is required for mural signs. All artists and owners of the property must sign the mural sign permit application. When a mural sign is part of a school or similar group project, the signature of a responsible

official of the school or other group will be deemed signature by all artists. All artists and owners of the property must agree to the following:

- a. The mural sign must remain in place, without alterations, for at least 12 months from the date of permit issuance, unless the property is transferred during that period.
 - b. After 12 months the mural sign may be painted over, or at any time the mural sign becomes noncompliant with this code.
6. Murals may be allowed on structures within the public ROW if authorized by City Council motion, following an establishment of a program for murals in the right-of-way.

9.50.180 Historic Landmarks.

The City will not consider a sign permit for a sign on a ~~designated historic landmark site~~ historic resource until the sign request is determined by the City to be in conformance with the Bend Development Code Chapter 10.20, Historic Preservation Code.

**EXHIBIT B
FINDINGS OF FACT
BEND CODE (BDC) UPDATE
AMENDMENT PZ 19-0265**

I. PROCEDURAL FINDINGS:

(1) PUBLIC NOTICE AND COMMENTS. A notice of the public hearing was printed in the Bend Bulletin on April 20, 2019, and sent to the neighborhood associations on April 15, 2019. In addition, the City sent a newsletter to approximately 6,250 business registrants letting them know about the recent work sessions that discussed murals and of the Planning Commission's public hearing on May 13, 2019. As of the writing of this report, the City has received 17 written comments.

(2) PROPOSAL: Amendments to the Bend Code to allow murals outside of the Makers District. The amendments would permit mural signs in the commercial, mixed-use, public facilities and industrial designations in addition to any other sign allowed on a property. Mural signs would also be permitted in the residential designations in addition to any other sign allowed on a property when the mural sign is located on a developed site that abuts an arterial or collector street and it does not include a residential use.

II. CRITERIA OF APPROVAL:

(1) The Bend Comprehensive Plan

(2) Bend Development Code

(a) Chapter 4.6, Land Use District Map and Text Amendments;
Section 4.6.200(B), Criteria for Legislative Amendments

III. APPLICABLE PROCEDURES:

(1) Bend Development Code

(a) Chapter 4.1, Land Use Review and Procedures

IV. FINDINGS REGARDING COMPLIANCE WITH APPLICABLE CRITERIA:

**CONFORMANCE WITH CITY OF BEND DEVELOPMENT CODE, CHAPTER 4.6,
LAND USE DISTRICT MAP AND TEXT AMENDMENTS**

4.6.200 Legislative Amendments.

A. Applicability, Procedure and Authority. Legislative amendments generally involve broad public policy decisions that apply to other than an individual property owner. These include, without limitation, amendments to the text of the comprehensive plan and map, Development Code and changes in the zoning map not directed at a small number of properties. They are reviewed using the Type IV procedure in accordance with Chapter 4.1, Land Use Review and Procedures and shall conform to Section 4.6.600, Transportation Planning Rule Compliance. A Legislative Amendment may be approved or denied.

FINDING: The recommended amendments to the text of the Bend Code involve broad public policy rather than an individual property owner. Therefore, the Legislative Amendment Procedures of this section are the appropriate procedures for this review.

B. Criteria for Legislative Amendments. The applicant shall submit a written narrative which explains how the approval criteria will be met. A recommendation or a decision to approve or to deny an application for a Legislative Amendment shall be based on all of the following criteria:

1. The request is consistent with the applicable State land use law;

FINDING: The proposed amendments do not affect State goals, commission rules or land use statutes. Therefore, this criterion is not applicable.”

2. The request is consistent with the applicable Bend Comprehensive Plan goals and policies;

FINDING: The “goals” established in the general plan express the desires of the residents of Bend as the City progresses into the future. The “goals” are generally carried out through “policies,” which are statements of public policy. The following Goals and Policies are applicable:

Chapter 1: Plan Management and Citizen Involvement

Goals:

- **Ensure Quality Design and Attractive Development**
Ensure that the “built environment” is as attractive as feasible.
- **Preserve and Enhance a Strong Active Downtown**
Bend's downtown continues to be an active focal point for residents and visitors with strong businesses, urban housing, civic services, arts and cultural opportunities, and gathering places. Parking downtown is adequate and strategically located. Planning in other areas continues to support a healthy downtown.

- **Promote Public and Civic Involvement**
Encourage involvement by all citizens, corporate and individual, to keep the city vital and the Plan an “evolving vision”.
- **Create Clear and Consistent Implementing Ordinances**
Implement the plan through effective, clear and consistent ordinances and language that reflect the intent of the vision.

FINDING: Mural signs have the opportunity to tell the community’s story, create a unique experience, engage citizens, increase foot traffic and tourism, increase appreciation for the arts and artists, and increase overall attractiveness of the space. The amendments will be clear and objective.

Policies

Citizen Involvement

1-15 The City shall continue to use advisory committees in their planning process, members of which are selected by an open process, and who are widely representative of the community.

1-16 The City will use other mechanisms, such as, but not limited to, meetings with neighborhood groups, planning commission hearings, design workshops, and public forums, to provide an opportunity for all the citizens of the area to participate in the planning process.

FINDING: A notice of the public hearing was printed in the Bend Bulletin on April 20, 2019, and sent to the neighborhood associations on April 15, 2019. In addition, the City sent a newsletter to approximately 6,250 business registrants letting them know about the recent work sessions that discussed murals and of the Planning Commission’s public hearing on May 13, 2019.

The City Council held a work session on April 3, 2019, and the Planning Commission held a work session on April 22, 2019, and a public hearing on May 13, 2019. The City Council held a public hearing on May 15, 2019, regarding the proposed amendments.

As of the writing of this report, the City has received 17 written comments.

Chapter 3: Community Connections

Goals

- To expand the number and variety of cultural and artistic venues held downtown and elsewhere in the community.

FINDING: Central Oregon’s abundance of scenic and recreational amenities is complemented by a rich and diverse cultural climate of theater, music, and art in Bend. The visual arts are represented with public art on street corners, at public buildings, and through exhibits at several public and private galleries in downtown Bend and elsewhere in the community. Several times each year, the downtown merchants sponsor “Art Hops” when painters, sculptors, weavers and other artisans demonstrate their craft in the downtown stores. Mural signs would add to the variety of artistic amenities in Bend and may inspire a mural festival, which would provide another artistic venue for the community.

During the Planning Commission’s public hearing on May 13, 2019, the Commission recommended allowing mural signs to be painted on structures within the public right-of-way if authorized by motion of the City Council. This authorization would only be for the consent to paint a mural, and would not involve any determinations based on content. Prior to considering any proposals or granting authorization, the City would need to establish a mural program that included a framework for receiving and reviewing requests to apply murals to structures within the right-of-way. This framework would most likely involve another body to review requests. Until that time, the Council will not consider any such requests.

Chapter 6: The Economy and Lands for Economic Growth

Goals

- Promote a vital, diverse and sustainable economy, while enhancing the community’s overall livability.

FINDING: Mural signs could increase tourism, which would continue to stimulate economic development in the City of Bend.

Chapter 9: Community Appearance

Goals

- To make a concerted effort to improve the appearance of the community, particularly in the commercial, industrial and multifamily areas;
- To significantly improve the appearance along the state highways and other transportation corridors as one means of recapturing the individual and distinct identity of the Bend area.

FINDING: Mural signs provide an opportunity to improve the appearance of the community and along transportation corridors. The following amendments would allow mural signs citywide:

9.50.030 Definitions.

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- 2. Except for sites zoned Urbanizable Area (UA) District, mural signs are allowed in the residential Comprehensive Plan map designations in addition to any other sign allowed on a property when they comply with the following:**
 - a. The mural sign is located on a developed site that abuts an arterial or collector street and the site does not include a residential use.**
- 3. Mural signs are not subject to size and height limitations.**
- 4. Mural signs must be kept in good condition until they are removed.**
- 5. A permit is required for mural signs. All artists and owners of the property must sign the mural sign permit application. When a mural sign is part of a school or similar group project, the signature of a responsible official of the school or other group will be deemed signature by all artists. All artists and owners of the property must agree to the following:**
 - a. The mural sign must remain in place, without alterations, for at least 12 months from the date of permit issuance, unless the property is transferred during that period.**

- b. After 12 months the mural sign may be painted over, or at any time the mural sign becomes noncompliant with this code.*
- 6. Murals may be allowed on structures within the public ROW if authorized by City Council motion, following an establishment of a program for murals in the right-of-way.**

Policies

9-4 Sign regulations should limit the size, location, and number of signs in residential, mixed-use, commercial, institutional and industrial areas and have amortization provisions to remove non-conforming signs within a reasonable period.

FINDING: The proposed amendments would allow more mural signs in Bend outside of the Makers District. The amendments would permit mural signs in the commercial, mixed-use, public facilities and industrial designations in addition to any other sign allowed on a property. Mural signs would also be permitted in the residential designations in addition to any other sign allowed on a property when the mural sign is located on a developed site that abuts an arterial or collector street and it does not include a residential use.

During the City Council work session on April 3, 2019, the Council discussed allowing mural signs citywide rather than just within the Makers District. The Council expected that within five years from the date of the adoption of the code amendments that enough mural sign permits would have been issued citywide to allow a determination whether the mural sign provisions are successful or need modification. Staff will prepare a memorandum to Council during the fifth year after the effective date of the code amendments to evaluate its success and any issues that may have arisen.

Based on the findings stated above, staff concludes that the proposed text amendments are consistent with the applicable Comprehensive Plan Goals and Policies.

- 3. The applicant can demonstrate a public need or benefit for the proposed amendment.**

FINDING: Mural signs are a unique and appealing way of adding personality to businesses rather than typical wall coverings, signage or decorations. In addition, the attractiveness of mural signs could promote economic development by increasing tourism. Therefore, there is a benefit to allowing mural signs in Bend.

4.6.500 Record of Amendments.

The City Recorder shall maintain a record of amendments to the text of this Code

and the land use districts map in a format convenient for public use.

FINDING: In the event the Bend Code text amendment is adopted by ordinance, the City Recorder will maintain a record of the amendments and the revised provisions will be included as part of the Bend Code available to the public on the City's website.

4.6.600 Transportation Planning Rule Compliance.

When a development application includes a proposed comprehensive plan amendment or land use district change, or both, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060.

FINDING: The new text amends the Bend Code. The proposed amendments are not tied to any one development application and do not affect the functional classification of any street. The proposed amendments will have no measurable impacts on the amount of traffic on the existing transportation system; therefore, the proposed text amendments do not cause a "significant effect" under ORS 660-012-0060.

V. CONCLUSIONS:

Based on the above Findings, the proposed Bend Code text amendment meets all applicable criteria for adoption.