

## ORDINANCE NO. 2444

### AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTION 15.10.010 TO EXCLUDE OUTDOOR SHELTERS FROM THE REQUIREMENT TO CONNECT TO PUBLIC SEWER UNDER BMC 15.10.010C.

#### Findings:

A. The 2021-2023 Council Goal Framework plan includes a housing goal to “Take meaningful action to make this statement a reality: People who live and work in Bend can afford housing in Bend.” The goal includes a strategy to invest in programs and partnerships that result in collaborative, concrete actions toward ending homelessness in Bend. To implement this goal and strategy the plan includes an action to modify City codes to allow for managed camps, shelters and other facilities to address homelessness.

B. As part of the City’s overall strategy to implement solutions for people experiencing homelessness, the City Manager appointed an advisory group known as the Sounding Board to House Our Neighbors to develop a proposal for changes to the Bend Development Code for standards relating to development of shelters. The Sounding Board held a public process from April-December 2021, and created a proposed code to the Planning Commission for consideration. At meetings on February 14, 2022, February 22, 2022, and March 8, 2022, the Bend Planning Commission considered and recommended for approval amendments to the Bend Development Code to modify City codes to allow for managed camps, shelters and other facilities to address homelessness. The proposed amendments create standards for permanent and temporary shelters in the City of Bend which help implement the 2021-2023 Council goals, and will be considered by the Bend City Council following a public hearing on May 4, 2022.

C. Under the proposed Bend Development Code amendments, all shelter developments are required to comply with City requirements for public infrastructure, including sewer connections, with the exception of Outdoor Shelters when a sewer connection is not required by the building code. Outdoor Shelters are required to provide sanitation facilities, but may do so by portable units, unless otherwise required by the building code. The building code may require sewer connections if an Outdoor Shelter development includes a building that is required by the building code to contain restrooms, or in other instances.

D. Sewer connections are also governed by the Bend Municipal Code, and adoption of the changes to the Bend Development Code requires a corresponding change to the Bend Municipal Code to make the codes consistent regarding requirements to connect to sewer for Outdoor Shelters. The proposed changes to the Bend Municipal Code clarify that a new Outdoor Shelter is not “new development” requiring connection to the City’s sewer system, unless required by the building code, consistent with the recommendations for the Bend Development Code.

E. House Bill 2001 requires the City to allow a duplex to be built "on each lot or parcel zoned for residential use that allows for the development of detached single family dwellings." The Oregon Administrative Rules implementing HB 2001 require duplexes to receive the same exceptions to public works standards as apply to single-family dwellings. See, OAR 660-046-0120 and 660-046-0220. The Bend Development Code allows development of a new single-family dwelling to install a septic system, and not connect to the City sewer system, if the property is located over 300 feet from an existing sewer main. The proposed amendments apply this exception to a new duplex on a vacant lot as well.

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


Section 1. Bend Code Section 15.10.010 is amended as shown on the attached Exhibit A.

Section 2. All other provisions of Bend Municipal Code Chapter 15 remain unchanged and in full effect.

First Reading: May 18, 2022

Second reading and adoption by roll call vote: June 1, 2022

YES: Mayor Gena Goodman-Campbell                      NO: none  
Mayor Pro Tem Anthony Broadman  
Councilor Barb Campbell  
Councilor Melanie Kebler  
Councilor Megan Perkins

  
\_\_\_\_\_  
Gena Goodman-Campbell, Mayor

ATTEST:

  
\_\_\_\_\_  
Robyn Christie, City Recorder

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Mary A. Winters, City Attorney

## EXHIBIT A

### 15.10.010 Use of Public Sewer – Requirements for New Development and Septic to Sewer Conversion Program.

#### A. The intent of this section is to:

1. Require connection to the public sewer system for newly developed property as defined in this chapter.
2. Facilitate a comprehensive program whereby individual properties with private on-site septic systems within the City limits shown as on the City of Bend Comprehensive Plan Map at the time of the urban growth boundary expansion by Ordinance No. 2271, effective on acknowledgment on December 6, 2016, will connect to the public sewer system when a public sewer system becomes legally available as defined in this chapter.
3. Provide for financial assistance for connection fees to qualifying property owners with private on-site sewer systems converting to the public sewer system.

B. *New Private On-Site Septic Systems.* No person shall construct any new private on-site septic system, including a secondary system on an existing developed property. Replacing an existing septic system is an alteration, not a new system. Any system not operated by the City is a private on-site septic system.

C. *New Development.* New development as defined below shall require the property to connect to public sewer. The City will require that public sewer is extended to the property frontage in accordance with the City of Bend Standards and Specifications. New development does not include an Outdoor Shelter, under BDC 3.6.600.E., if a sewer connection is not required by the building code. No new on-site septic systems are allowed for Outdoor Shelters. New development includes any of the following:

1. A land division.
2. Construction of a new dwelling unit.

#### a. Exemptions.

- i. New accessory dwelling units (ADUs) may be served by an existing septic system if an alteration permit is not required to adequately serve the ADU, as defined by subsection (C)(3) of this section;
- ii. A new single-family dwelling (SFD) single-unit dwelling or duplex on a vacant parcel located over 300 feet from an existing sewer main is not required to connect to public sewer. Distance to existing sewer is measured from the termination of the nearest sewer main along the centerline of the right-of-way to the nearest property line intersecting the right-of-way.

(A) The City Engineer may allow a waiver to connect to public sewer if the sewer main to be extended is required to be installed at an average depth of over five feet below ground surface. If a waiver is granted, a waiver of remonstrance will be recorded on the property at the property owner's expense. The waiver will also require the property owner to connect to public sewer within two years from when public sewer becomes legally available, as defined in subsections (E) and (I)(1)(b) of this section.

3. Any improvements requiring an alteration permit as defined by Deschutes County Environmental Soils Division and/or OAR 340-071-0100.

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D. *Existing Development.* Existing development is property served by a private on-site septic system within the City limits as shown on the City of Bend Comprehensive Plan Map at the time of the urban growth boundary expansion by Ordinance NS-2271, approved on November 14, 2016. Development annexed into the City served by private, on-site septic systems shall connect to sewer as set forth in the annexation agreement(s), policies or decisions of the City Council.

E. *Legal Availability.* Sewer service is legally available if public sewer with capacity exists along the frontage of the property, following privately or publicly funded extension of sewer. Properties that receive sewer service from a neighborhood extension project (NEP project), capital improvement project (CIP project), or privately funded sewer project will receive a notice of operational completion per subsection (1)(1)(a) or (1)(3)(a) of this section, at which time will indicate that sewer is legally available.

F. *Septic to Sewer Conversion Program.* There is hereby established a City of Bend Septic to Sewer Conversion Program with the goal of connecting properties served by private on-site septic systems to the City's public sewer system over time. The program applies to properties within the City limits shown on the City of Bend Comprehensive Plan Map at the time of the urban growth boundary expansion on December 6, 2016, Ordinance NS-2271. In furtherance of the Septic to Sewer Conversion Program, the City will engage in neighborhood extension projects (NEP projects) in a systematic manner, as funds are available and allocated. NEP projects may be selected based on a pool of applicants. The City Manager is authorized to solicit and receive applications from property owners who wish their neighborhood or street(s) be considered for a sewer extension project. Any property owner who signs a NEP project application that is selected for funding will be required to connect to sewer within two years of receiving the City-issued Notice of Operational Completion.\* Applications will be considered at least annually, based on the following considerations:

1. Cost of the sewer extension project, including design;
2. Total number of homes or properties to be connected to the public sewer system from the project;
3. Whether other City construction projects are planned for the street identified in the application;
4. The percentage of property owners who would be served by the neighborhood sewer extension project who have joined or signed onto the application;
5. The age of existing septic systems that would be replaced by the proposed neighborhood sewer extension project and evidence of failing septic systems; and
6. Other factors established by the City Manager.

G. A committee, to include one to three City Councilors, the City Engineer, the Engineering, Infrastructure and Planning Director, the Septic to Sewer Program Manager, and the City Manager, or their designees, will review submitted applications in light of the available funds and the factors in subsection (F) of this section. The committee will select one or more NEP project(s) for funding and construction to proceed pursuant to applicable City processes.

H. *Capital Improvement Program.* In addition, there may be areas of the City that receive public sewer service through the extension of a sewer main or interceptor along their frontage and a stub-out from the construction of a project associated with the City's Collection System Master Plan and Capital Improvement Program (CIP projects). Properties that receive sewer service from a CIP project shall pay applicable system development charges (SDCs) and a

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connection fee at the time of plumbing permit issuance as further defined in subsection (I)(1)(d) of this section.

### I. Timing of Connection and Payment of Fees.\*

1. The following sections apply to properties that receive sewer service from a NEP project or CIP project after establishment of the Septic to Sewer Conversion Program by Ordinance No. 2320, approved on December 19, 2018.

a. Upon completion of a NEP project or CIP project, the City will issue a notice of operational completion to all property owners with frontage along the newly completed public sewer line within 30 days of operational completion. The notice will be recorded and will run with the land, explaining the provisions of this subsection (I). City issuance of the Notice of Operational Completion indicates legal availability of sewer service.

b. Property owners who signed the successful application for the NEP project are required to connect to the public sewer within two years of the Notice of Operational Completion.\*

c. Connection is voluntary for property owners with frontage along a NEP project who did not sign the application for the project or with frontage along a CIP project, except that connection is always mandatory when any of the following occurs at any time:

i. The existing on-site septic system requires repair as defined by Deschutes County Environmental Soils Division and/or OAR 340-071-0100; or

ii. The property owner applies for new development, as defined in subsection (C) of this section.

d. *Connection Fees and System Development Charges (SDCs)*. The connection fee will be established by the City Council in the annual fee resolution, adjusted annually for inflation (using the Engineering News-Record (ENR) construction cost index). Except as provided in subsection (I)(1)(e) of this section, a property owner must pay all connection fees in effect at the time of plumbing permit issuance, except that any property that connects within two years from the Notice of Operational Completion will be granted a 50 percent discount to the current sewer connection fee. Properties that do not connect within the two-year frame must pay the full sewer connection fee established by Council at the time of application for connection.\* All property owners must pay the SDCs in effect at the time of application for connection.

e. A qualifying property owner required or requesting to connect to public sewer under the Septic to Sewer Conversion Program can request that the City fund their connection fees under the City's customer assistance program. "Qualifying property owner" means a property owner with a household income at or below 80 percent of the area median income based on the most recent HUD calculation available (US Census Bureau's ACS estimate for Bend, OR MSA).\*

2. The following subsections apply to properties that do not have legally available sewer service as defined in subsection (E) of this section:

a. Property owners shall connect to public sewer if they apply for new development defined by subsection (C) of this section. All property owners must pay the SDCs in effect at the time of application for connection.

b. Property owners are permitted to repair existing on-site septic systems.

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3. The following subsections apply to properties with legally available sewer that received sewer service via a privately funded sewer project or a CIP project prior to establishment of the Septic to Sewer Conversion Program by Ordinance No. 2320, approved on December 19, 2018.

- a. Upon completion of a privately funded sewer project, the City will issue a notice of operational completion to all property owners with frontage along the newly completed public sewer line within 30 days of operational completion. The notice will be recorded and will run with the land, explaining the provisions of this subsection (I). City issuance of the notice of operational completion indicates legal availability of sewer service.
- b. Property owners shall connect to public sewer if any of the following occurs:
  - i. The existing on-site private septic system requires repair as defined by Deschutes County Environmental Soils Division and/or OAR 340-071-0100; or
  - ii. The property owner applies for new development defined by subsection (E) of this section.
- c. Property owners are not permitted to repair existing on-site septic systems.
- d. All property owners must pay the SDCs in effect at the time of application for connection.

J. City water service may be terminated to any property that has not hooked up to the sewage system in compliance with the provisions of this title or any other applicable law, rule or regulation.

K. *Sewer Billing Accounts.* All persons receiving sewer service from the City shall pay the monthly fee for the service and connection established by Council resolution and all applicable system development charges. The Council may set sewer rates based on type of use, on volume discharged, on strength of the discharge, and/or on any other basis the Council determines to be appropriate.

L. The City Manager shall have the authority to establish administrative rules and regulations and departmental procedures to clarify, carry out and enforce the provisions of this chapter, and to implement the Septic to Sewer Conversion Program consistent with the intent of this chapter.

M. All connections to public sewer shall be completed in compliance with all applicable Federal, State and City laws, regulations and policies. [Ord. NS-2373, 2020; Ord. NS-2360, 2020; Ord. NS-2320, 2018; Ord. NS-2182, 2012]

\* A Septic to Sewer COVID-19 Relief Program was established by City Council resolution in 2020 due to the novel coronavirus pandemic, to provide financial relief to qualifying affected residents. The temporary program applies to property owners receiving sewer service from the Southeast Interceptor Project and the Desert Woods and Neighborhood Extension Project and includes modified connection timing, connection fee discount timing, and connection fee waiver approval criteria. See Resolution No. 3203 for the information on the criteria and administration of this temporary program.