

ORDINANCE NO. 2479

AN ORDINANCE AMENDING BEND MUNICIPAL CODE SECTION 9.40.030, AFFORDABLE HOUSING FEE

Recitals

- A. Bend Municipal Code (BMC) chapter 9.40 governs the City's Affordable Housing Fee of 1/3 of 1% of permit valuation to fund affordable housing programs and projects (the "Fee"). The City first adopted this Fee by Ordinance No. NS-2012 in 2006.
- B. The State of Oregon has prohibited new fees imposed on construction, except in conformance with a new statutory scheme. Fees in existence prior to 2007 may be continued or extended so long as the rate of the fee does not increase.
- C. This ordinance does not increase or affect the rate of the Affordable Housing Fee that has been in existence prior to 2007.
- D. BMC Chapter 9.40 allows use of the Fee for certain administrative costs of running the Fee and related programs, including indirect costs to support the City's Housing program under the City's Cost Allocation Program. These indirect costs pay for other City departments necessary to operate the Housing program like human resources, payroll, and information technology.
- E. Limits on administrative costs have changed since the Fee's inception. When the Fee was created in 2006, administrative costs were limited to 5%. In 2008, under Ordinance No. NS-2096, Council increased that limitation to 10%, clarified that indirect costs were an allowable use of Fee revenue, and provided a one-time General Fund payment of \$118,000 for administrative costs. In 2011, under Ordinance No. NS-2167, Council added a 3% cap for indirect costs, based on "the balance of unobligated funds on hand at the beginning of the fiscal year." In 2021, under Ordinance No. NS-2417, Council removed the 10% limitation on administrative costs and allowed the Fee to support more than one full-time employee, opting for a long-term goal of limiting administrative costs to 10% of annual collected Fees.
- F. Through its recent biennial goalsetting processes, Council has emphasized and increased efforts in promoting and supporting affordable housing, as well as middle income housing, as housing costs and houselessness continue to rise in the community. The City's Housing Department, supported in part by the Affordable Housing Fee, has therefore expanded in staff to support these goals. It is no longer possible to support these program efforts with a goal of limiting administrative costs to 10% of revenue from the Fee. The City's long-term goals include exploring how to expand program revenue and funding available to support the City's housing goals, which would provide other sources of revenue for administrative costs.

- G. The “unobligated funds on hand” method of calculating indirect costs established in 2011 is not consistent with City accounting or financial best practices. This proposed code amendment changes the calculation of indirect costs to be a percentage of annual Fee revenue, which is a more reliable way to calculate indirect costs.
- H. Staff in multiple departments across the City, including but not limited to Finance, Legal, City Manager’s Office, and Human Resources are needed to support Fee program activities. The purpose of the change is to allocate overhead funding in alignment with the services provided.
- I. This code update changes the limitation on maximum indirect cost expenditures from 3% of unobligated funds at the beginning of the fiscal year, to 15% of annual Fee revenue. Indirect costs will continue to be allocated through the City’s Cost Allocation Program for services provided to support the Fee program activities.

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

- Section 1.** Bend Municipal Code Chapter 9.40 is amended as shown in the attached Exhibit A.
- Section 2.** All other provisions of the Bend Municipal Code remain unchanged and in full force and effect.
- Section 3.** If any provision, section, phrase, or word of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

First Reading Date: June 7, 2023.

Second Reading and adopted by roll call vote on June 21, 2023.

YES: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Megan Perkins
Councilor Ariel Méndez
Councilor Mike Riley

NO: none



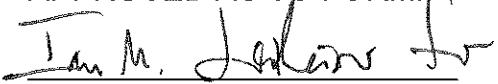
Melanie Kebler, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

Chapter 9.40

AFFORDABLE HOUSING FEE

Sections:

- 9.40.010** [Affordable Housing Fee Imposed.](#)
- 9.40.020** [Special Revenue Fund.](#)
- 9.40.030** [Permitted Expenditures.](#)
- 9.40.040** [Median Income Requirement.](#)
- 9.40.050** [Repealed.](#)

9.40.010 Affordable Housing Fee Imposed.

A fee of one-third of one percent of permit valuation, for all building permits, shall be assessed at time of building permit application.

9.40.020 Special Revenue Fund.

A. Funding received from this source must be deposited in a 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 must be returned to the fund. ~~In years where fee collections are sufficient so that less than 10 percent of the total fee covers permitted administrative~~ Administrative expenses as defined in BC [9.40.030](#), ~~are allowed uses of revenue from the Affordable Housing Fee, that excess amount must 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 percent of total annual collected fees. Repaid loan amounts will be included in assessing administrative cap expenses.~~

B. City Council will award funding on an annual basis. The City of Bend's Affordable Housing Advisory Committee will receive applications and make recommendations on funding awards to the City Council. The fund may 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 include:

A. Employees to administer this program and the Department of Housing and Urban Development Community Development Block Grant (CDBG) program. These employees 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 may be provided for by the City of Bend affordable housing fee funds.

B. In addition to the employees specified in subsection [\(A\)](#) of this section, the following administrative purposes may be paid for from the Affordable Housing Fund:

1. *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.
- 2. *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.
- 3. *Indirect Costs.* Indirect costs for may be charged to the affordable housing fee program may be charged under the City of Bend Cost Allocation Program, but any such costs may not exceed 15% of annual Affordable Housing Fee revenue. Indirect costs may not exceed three percent of the balance of unobligated funds on hand at the beginning of the fiscal year.

C. *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 percent of area median income.

9.40.050 Expiration.

Repealed by [Ord. NS-2345](#).